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CHRONICLES

OF

THE BUILDERS

OF THE

COMMONWEALTH

Historical Character Study

BY

HUBERT HOWE BANCROFT

VOLUME II

SAN FRANCISCO
THE HISTORY COMPANY, PUBLISHERS
1892

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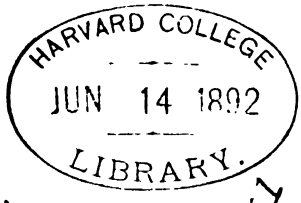

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CHRONICLES OF THE BUILDERS.

CHAPTER I.

GOVERNMENT—INCIPIENCY AND GENERAL VIEW.

IMMIGRATION AND COLONIZATION—LATIN, TEUTON, SLAV, AND MUSCOVITE—ANGLO-SAXON NATION-BUILDING—GOLD, FURS, AND RELIGION—INCORPORATED MONOPOLY—NEW SPAIN AND NEW MEXICO—RULE OF THE CONQUERORS—INDIAN AFFAIRS—PENAL COLONIES—MEXICO, VICEREGAL, IMPERIAL, AND REPUBLICAN—ECCLESIASTICAL RULE—U. S. CIVIL WAR—MILITIA SYSTEM—JUDICIAL AND MILITARY—LAWS OF THE MINERS—VIGILANCE COMMITTEES—ALCALDES—BANDITTI—BUCCANEERS—FILIBUSTERS—MEXICAN WAR AND A NEW IMPERIALISM—GOVERNORS AND STATES—BOSSISM—FEMALE VOTING.

PRIOR to the discovery of America, the only outlet for Europe's surplus population was eastward; and along the stream flowing in that direction civilization retrograded rather than advanced. By long religious and other wars upon the most frivolous pretences, together with famine, pestilence, and the free course of numberless diseases, the increase of the human race was kept within bounds. But when Columbus and his successors found a New World, inhabited only by savages who might easily be slain, there was a fresh field for Old World colonization, and a westward stream of migration set in, which ceased not its flow until the shore of the Pacific was reached, intellectual culture and enlightenment increasing rather than diminishing along its course.

Conditions being new, there must be tried new forms of government. Unable to be present in person, the sovereign arm of Europe must be lengthened so that it might extend over America. Spain, Portugal, and France, Holland, England, and Russia, all had their New World claims staked out, with mines and plantations held by their subjects, and at first

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largely worked by the enforced labor of native Americans and Africans. But this abasing state of things was not destined always to last. Before three centuries had passed the native races were thinned, and Europe, as compared with her former sway, had barely a foothold in the country, some sovereigns having sold their possessions, while the subjects of others threw off the yoke and declared their independence of the mother country. The tendency of the revolted colonies in form of government was toward republicanism, not always, however, with attendant success.

Direct colonization on a large scale, with agriculture as a basis, was on the northern continent virtually restricted to the Atlantic coast of the United States, thence spreading inward with gradual extension of the frontier westward. Elsewhere it followed as the result of other pursuits. The Spaniards were lured onward by the attractions of gold and slaves, and when these declined their advance was arrested. Northward, for Teutons and Slavs, as well as for some of the Latin race, the main incentive was the fur-trade, together with the flitting vision of the inter-oceanic strait, or such erratic fancies as Ponce de Leon's fountain of youth. The entry of the Muscovite in the northwest aroused slumbering rivals to the east as well as south, and Spain pushed forward once more, but with a purpose so unsustained as to enable Great Britain to wedge herself in between and seize the bone of contention. Her advance agents being in their turn bound by the fetters of monopoly, the enterprising Yankee took advantage of the opportunity to obtain a foothold by their side.

The comparatively feeble incentives to fur-trading were succeeded by the quickening impulses of gold-mining, which in power of attracting population far surpassed the Anáhuac silver lodes. The yellow metal could within a year draw numbers sufficient for a full-fledged state, like California, and with nearly equal

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speed it pluralized Oregon in the territories of Washington, Idaho, and Montana, created Nevada, Colorado, and Arizona, and liberated British Columbia. Never has appeared a more powerful stimulus to settlement, promoting as it does with its vivifying influence a host of varied industries.

Other inducements toward occupation appear, although dependent upon the former, as traffic and railway transit, which build up states and territories, and by various means contribute to prosperity. Stock-raising comes to redeem the neglected mountains and plains along the rocky ridge between Texas and British Columbia, and to favor in a degree the spread of agriculture and manufacturing industries, to which mining had given foothold.

In Utah, the religious element which attended the puritan migration reappears to direct the onward march, following close on the American occupation of Oregon, the latter being due in its inception to politico-patriotic motives, and prompted in a measure by the invasion of Texas. The feeling engendered by this daring but iniquitous exploit still broods along the Mexican border, and is fostered by the tacitly accepted doctrine of manifest destiny, and the recollection of filibuster achievement. The negative colonization schemes of the chartered fur companies of the north in Alaska, in the Columbia basin, and eastward, were directed to their own purposes, and overshadowed by the more congenial conditions southward. Latterly, corporate undertakings seek this channel for their enrichment, among other ways by the improvement of vast tracts of land secured by monopolists. Side by side progresses coöperative colonization, the success of which is broadly illustrated in Utah, and in various scattered settlements, especially in California.

The citizens of the United States possess the colonizing spirit in a degree unequalled by any other people, having been trained to it by early backwood struggles. Their Spanish neighbors lacked the essen-

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tial qualities for such performance, and moved only under the strongest of outside impulses, flagging in their exertions the moment these abated. Thus it was most difficult to obtain colonists for the frontier, notwithstanding the liberal offers of pay and equipment for nominal military service.

Before this influx and advance of the white race in their different paths and aims, the aboriginal element was compelled to yield, or be crushed like a reed, as indeed, for the most part, it was. The culture and high form of monarchic government which had existed among the Nahuas and Mayas, since their earliest traditions, were dissipated to the winds. The rise and fall of dynasties, at times confounded with successive immigrations of dominating tribes, were marked by an aristocratic ascendancy, sustained at different epochs by triumvirates of leading rulers and other alliances, based on vast military establishments, with which conquest was carried on for the diversion of oppressed subjects and the acquisition of tribute, slaves, and glory. This is observable particularly in Mexico and Guatemala. In Yucatan a less able autocratic policy had permitted the once subjugated lordlings to reassert themselves, and re-divide the country into a number of petty sovereignties.

Southward, aboriginal rulership subsides in like manner into the sway of the cacique with moderate powers, and northward it resolves itself into that of the ordinary chieftain with but nominal authority. He figures as a leader in war, and a representative during negotiations, and depends on personal prowess or skill for his election and recognition, deriving but slight influence from inherited wealth or prestige. Here, as elsewhere, environment and the conditions of life determine domination. On the plains, with their free, inspiring expanse and nomad life, leaders were alone tolerated, not rulers, partly from the facilities for disbanding, and also on account of the dispersion caused by the search for game, or fruit, or wintering grounds.

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Such influences had their effect also on the small pueblo settlements of New Mexico, with their concessions to aspiring freedom in an elective republican form of administration, yet of oligarchic stamp. In the small and isolated villages of the Northwest Coast, with dependence on family coöperation for home comforts, and participation in the chase by land and sea, the tendency was to patriarchal sway, with a certain deference to age and accumulated possessions.

The conquest of the Indians by the white men was favored by a variety of means, among them superiority of arms and intelligence on the one side, and on the other the lack of confederated strength, and the discord which has so often undermined national existence. In Mexico, Aztec rule had become detested through excessive exactions and the demands for human sacrifice among subjugated peoples, while unwise restrictions against the powerful merchant class, and the undue elevation of the nobles, had infused wide discontent among the inferior ranks of subjects. The superstition which invested the Cortésian band with divine attributes tended to break the allegiance upheld chiefly by fear; and so alliances were gained, and one tribe pitted against another, to fight for a conqueror whose astuteness was supplemented by such phenomenal weapons as steel, fire-arms, and coats of mail. Similar Machiavellian practices were adopted by the fur-trader and settlers northward, augmented by that potent element of discord and weakness, alcohol.

The paternal government urged on its minions, including many a cruel Pizarro, treacherous Olid, or unscrupulous Alvarado. Grants, franchises, and encomiendas were freely bestowed, with the enticing gubernatorial dignity and powers, and with authority to augment their own importance and the domain and wealth of their suzerain by offering similar subordinate concessions to friends and officers, over territories yet to be conquered. With such inducements were overrun and occupied one section of Spanish America

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after another, as far north as New Mexico by land and Nootka by sea, with power to extort and enslave, in the name of king and church. Here Spanish ardor flagged, in the absence of attractions such as alone could stir to the achievements of a Cortés, who, cutting off retreat by burning his ships, set forth to conquer or to die. Later, the resistance of a band of Apaches, or the repelling aspect of a border range, sufficed to check the advance, and the once formidable aggressor fell back on the defensive, driven later by jealousy to attempt one stroke more for the possession of the coast.

The fur companies of the far north also represented the crown in holding its domain and protecting its interests. The grant of a charter was partly for securing a certain proportion of the revenue, partly to protect the natives against the reckless horde of free traders intent on temporary gain. Monopoly had its value here in securing prudent administration of territorial resources, as in Alaska, where it saves the seals from extermination by confining the slaughter to proper limits, and the Indians, by humane and equitable treatment, to their benefit and security, but always, of course, to the white man's profit.

Fur monopoly came as a natural result of distance from the base of supplies, and of the growing insolence of the Indians toward the free trapping parties, who were forced to unite under well-selected leaders. In the extreme north, the severity of the climate gave additional advantage to combinations. With their future occupation assured, there was perfected an elaborate system of management, under the eyes of a graded corps of officials, from the viceregal governor and the gubernatorial factor to the clerk and boatman.

The attitude of the traders toward the Indians differed materially from that of the government. The latter relied chiefly upon its armaments to sustain the somewhat arbitrary dictates of sovereigns; the former, depending upon the aborigines for food, trade,

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and the safety of scattered parties, had recourse to diplomacy. They prudently recognized the inherited right to ancestral hunting-grounds, paying even for the game taken therefrom by hunters, dealing fairly with them in barter, courting them as customers, and seeking to establish confidence. Such considerate policy brought about the happy relationship existing in British territory, so different from the infelicities resulting in the United States, where irresponsible persons sacrificed future prospects for a fancied momentary gain. At the same time vigorous measures were adopted to enforce good behavior, by withdrawing from objectionable districts a trade which brought comforts and luxuries, by inexorable justice and well-calculated punishments for offenses, by rewarding friendly chieftains with gifts and honors, and by balancing the power of the various tribes against each other.

The Russians took the precaution of exacting hostages from powerful tribes, and impressing, without mercy, the scattered and helpless Aleuts, under the plea of tribute to the tzar. Enslavement came naturally to the Muscovite, with his serf-system. The Spanish encomendero likewise used tribute as a pretext for enslavement, and for shielding his iniquities from the authorities, adding conversion as a further cloak for oppression. After the abolition of slavery and serfdom, designing employers found here an excellent substitute in peonage, taking advantage of the extravagance and poverty of the masses to enchain them in debt-bondage.

Colonists of the Latin and Teutonic races differed as radically in their treatment of the Indians as did the fur-trader and the government. To the former they had been as a quarry, luring them on to pursuit, but with whom they were not debarred from intermingling. Every fresh advance brought a closer intimacy, marked by the rise of a new race, which was to rehabilitate the maternal ancestry, liberate the na-

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tion, and revive its ancient glories. The Indian responded to these influences by contributing from his own fold some of the foremost rulers and scholars. Similar was the attitude of the French in Canada and the Slavs in Alaska. The fur companies, indeed, favored intermarriage as a bond with which to restrain the natives, and as producing a docile, half-breed race, whereby were promoted trade and security.

The Anglo-Saxon on the other hand held aloof from the despised native, whether for intercourse or enslavement, pushing him back step by step. The work he would do himself; he preferred a white mother for his children; therefore the best thing the savage could do was to get out of the way, and to die quickly. The government raised in the land-reservation a further official barrier, within which the doomed race might linger a little, and so take somewhat of the shame of it from our most Christian civilization.

The conduct of the Spaniard was, at first, even worse, with its shameless extortion, its steel and lash, though neither cut so deep as the cold, withering disdain of the blue-eyed master. The friars interposed their influence in favor of the Indians, and secured for them humane laws, which, however, were poorly executed.

The policy of the United States was not alone less humane, but less scrupulous and equitable. To fierce and mischievous tribes were given liberal concessions in land, provisions, annuities, and aid in establishing farms, with ready forgiveness for repeated delinquencies; nevertheless, the border settlers would kill them off. Even worse than this was the treatment accorded to peaceful and deserving bands, like the Pueblos of New Mexico, and the Mission Indians who, in California, had laid the basis for colonzation, and planted its vineyards and gardens. These were neglected, and surrendered to despoilers who scrupled not to drive the latter from the homes which had been occupied by them for generations. Other weak

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tribes managed by continued remonstrance to obtain a scanty allowance of the poorest of land, there to be further starved by dishonest agents.

Because they had been more sinned against, the tribes of the United States had more sins to answer for than the aborigines of either the north or south. The independence growing out of a roaming life, and the thieving disposition, especially of the fisher peoples of the Pacific coast, tended in no wise to lessen the fierceness of their retaliations, out of which grew so long a series of bloody deeds on both sides. The advantage of forbearance and prudence has, nevertheless, been demonstrated by the fur companies, and by the Mormons, who had comparatively little trouble with the surrounding savages, as they treated them in a measure like brethren.

Even when yielding to circumstances, and engaging in civilized pursuits, the Indian is decried as degrading labor, and so doing injury to white men in peace as well as in war. The same evil influence is ascribed to the Chinese, so useful in laying the foundation for industrial enterprise, and the object of loud denunciation on the part of white workmen, resulting in such emphatic protests against the race as its expulsion from many a camp and town, the San Francisco riot of 1877, the subsequent massacre in the Wyoming coal mines, and the restrictive congressional enactment against Mongol immigration.

The convict element roused similar feelings in former times. The continent was for a long period regarded as a penal colony by different nations. Spain, France, and England sent hither their convicts and paupers, and life in so remote and uncivilized a region was regarded as banishment by political and religious officials. Subsequently California, as one of the frontiers of Mexico, became the penal station for that country, until she was obliged to protest against the dumping of malefactors upon her shores. Alaska was colonized chiefly by condemned criminals from

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Siberia. The gold rush brought with it similar refuse, especially from the penal settlements of Australia. Of late, objections are raised against prison competition in industrial branches.

Colonization was attended by large grants of lands, a necessary inducement to attract occupants, partly for the protection of border settlements against savage raids, partly for political ends, as instanced not long ago by the United States in Oregon. Mexico was so liberal in this respect as to concede to individuals areas sufficient to form several counties, and which, after the transfer of territory in 1848, had to be reduced to reasonable limits. Mexico is still generous with her vacant tracts, but more careful in imposing conditions commensurate with the offer. The United States likewise continues to dispose of her rapidly diminishing land with little regard to its absorption by far-seeing speculators. The evil of such extravagance, as in giving it to railways, and permitting vast water-privileges and monopolizations, is making itself apparent with the growth of settlements, and becoming a source of discontent, to which the government should have given attention long ago, partly by more careful limitation of grants and franchises, partly by equitable taxation and other measures to enforce a subdivision of lands and equalization of burdens and advantages.

A striking feature of American colonization has been the vast migration by sea and land in the path of pioneer explorers. In Spanish America we find it impelled first by gubernatorial appointees bent on conquering and occupying the tracts assigned to them, as in New Mexico; then by mining excitements, which quickly dotted the wilderness with camps, towns, and farms. In the north the more self-reliant Anglo-Saxons pushed forward the border of their own accord, seizing or nominally buying the land. Here, also, began the most daring of the migrations, across the vast breadth of the continent, shortly to swell to

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unparallelled proportions under the stimulus of gold. The Oregon movement was prompted largely by the success of the Texas influx, both of a political tint, yet the former presenting the additional attraction of a sea-board. A long-instilled restlessness of disposition tended to sustain the westward exodus, now attracted chiefly by a favorable climate and cognate advantages. The most ably conducted of these migrations must be ascribed to the Mormons, of whom a body of five thousand proceeded, without a mishap, under their great leader to the promised land. This peculiar people stands preëminent as successful colonists of modern type, demonstrating to the nation the value of the so-called desert lands of the Rocky mountain slopes.

The United States present a broad example of happy achievements through practical ideas and well directed energy. In the progress of the liberation of mind and body since the middle ages, marked by the elevation of the lower classes to greater participation in social and political compacts and enjoyments, this country gave the most decisive of impulses. In their original struggle and intercourse with nature, the colonists acquired that self-reliance which suggested self-government of a high order. The lesson reacted on Europe, whence fugitives had come for relief, and for the practise of the liberal principles now coming into vogue. The result was the French revolution. Now, with strength multiplied, the agitation swung back to America, to evoke fresh revolutions and the formation of a series of republics.

In the United States, democracy was due to the independent self-reliance of the people, who objected to the aristocratic ascendancy of some of their number and the humiliation of others. Hence was brought forward the old Roman idea of federation, to which tended the natural and colonial divisions of the country, and the desultory and disconnected character of the independence war.

The instances of such government in other lands, as

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in Switzerland, had served toward the reawakening of Europe, through such potent mediums as Voltaire and his contemporaries and followers. In aboriginal America we also find a striking example in Tlascala, whose republican principles assisted a petty state to withstand the combined hosts of monarchical armies, but they were obscured under ages of oppression like the flickering light of similar governments among the Pueblos.

The importance of Mexico, in population and resources, had lifted her rapidly from a gubernatorial district to a captain-generalcy and viceroyalty, and her preëminence in America was overshadowed only for a time by the Peruvian silver region. A narrow-minded colonial policy made the American possessions subservient to the interests of the mother country, to the restriction or obliteration of local industries, and the consequent impoverishment of the masses, coupled with excessive duties and other imposts. The enforcement of the exactions, and the fear of smoldering discontent, as manifested in occasional feeble conspiracies, led to the further injustice of conferring all valuable and influential offices in church and state upon Spaniards from the peninsula, and upon the circle round the throne, regardless of the claims and services of the creoles. As a check upon the ambition of the appointed favorites, the judicial audiencias were here invested with the attributes of councils and semi-supervisory bodies, under control of the all-directing council of the Indies in Spain.

Here then were causes for the growing disloyalty far more serious than those which stirred to revolt the New England settlers—a disloyalty which awaited only the prostration of Spain under another European power to assert itself. The lowest and the highest classes were the last to be won over to the movement by concession on the part of the people at large. And the steps taken by the crown to conciliate the masses, tended all the more to sever the

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last cord which held in bondage the superior strata that controlled the wealth of the country. Personal ambition entered the arena to turn the scale at the right moment. The deliverance of Mexico was quickly followed by that of Central America.

Local participation in government was extremely circumscribed in the Spanish colonies until this deliverance had been consummated. In the new partition of power the Indians secured a share through secularization, a term which attained its full significance only in republican days. After sufficient training by the missionaries in the election of and subordination to officials chosen from among themselves, they were to be entrusted with local self-government, under the guidance of priests, which made it indeed at the first but another form of church rule. The missionaries were naturally averse to releasing their hold upon so profitable and convenient a pupilage, and therefore retarded the training of their wards, or pointed significantly to the danger of relaxing their control over semi-savage bands. Nevertheless, the liberation progressed. The mestizo has supplanted the Spaniard in leadership, but the more conservative Indian is, nevertheless, creeping to the front.

The disorders of the mestizo rule made that more prudent race welcome the restoration of the empire endeared to them by their long-nursed traditions. In the first instance, under Iturbide, the empire succumbed to faction, as did centralism, which reduced states to departments under appointees from the capital. The second empire, wherein the French sought to harmonize conflicting elements, failed chiefly from patriotic aversion to foreign intervention.

The cause for the virtual failure of republicanism in Spanish-America is to be ascribed not merely to the turbulent mestizo spirit, but also to the preëminence of the church in political as well as social life. The ecclesiastical bodies had been useful in spreading the conquest, and in sustaining domination and pro-

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tecting colonists and Indians alike. In seeking to guard the latter against oppression, they were prompted not alone by feelings of humanity but by self-interest. They would retain their power and share in the profits arising from enforced labor; any encroachment on the prerogatives of their order at once arousing jealousy. Their control over the Indians extended further than the home circle, or the domain of conscience, penetrating into economic and political channels. This system was beneficial only to a certain degree, after which it became an obstacle to progress, as among white devotees, keeping them in ignorance and retrogressive pupilage.

The revolution did not suit the plans of the higher clergy, nor would it have been palatable to the inferior orders, but for the enforcement of liberal measures by the new Spanish régime. A change being inevitable, they took steps to secure all possible advantage for themselves, in establishing the Iturbide empire. Failing to sustain it, and finding their influence waning under the efforts of liberals for the elevation of the masses, they sent their party into the field, regardless of the bloodshed which was certain to ensue. Their vast possessions in lands, buildings, and funds, the accumulation of centuries from legacies and contributions, and their sway over superstitious communities, served to sustain the fratricidal struggle for half a century. The success of the liberals was but a question of time. The eyes of the people were at last opened to the real motives of the church party and the conservatives, whose interests were almost identical; and then were clipped the wings of the vulture, by confiscation of the vast property so badly utilized, by the separation of church and state, and by restricting all noxious interference of the clergy. To this curtailment of ecclesiastic influence is greatly due the long period of peace now being enjoyed, together with an industrial development and prosperity hitherto unparalleled.

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Religion also tinged the political acts of the nations northward. It helped to hold the rein over the natives of Alaska, while French missionaries entered the field occupied by fur-traders. The puritan fervor of New England pervaded her scattered communities down to a late date, and may be traced even now in her Sunday laws and the like. The feeling served between the onward-pushing settlements as a bond for coöperation and defence, as it did in Spanish America between conquerors and serfs for mutual forbearance. The United States government did not despise the aid of missionaries in taming the fierce spirit of its wards, and in Oregon it gladly availed itself of their services to secure this fertile region.

The power of religion as a political factor is most strikingly illustrated by the Mormons, under whose hierarchy a wilderness was transformed into a flourishing realm. In the surrender of rights and tribute to able leaders, the common people have been compensated by temporal prosperity, largely through coöperation.

The United States had also their civil war. The slave-holding aristocracy had gradually developed into a cancer upon their political system, which the union party made a determined effort to eradicate. It was a struggle for lofty principle. Several states wavered in their allegiance. New Mexico appeared somewhat indifferent until roused by an invasion from Texas. Utah, which had not long before rebelled against federal intermeddling, nevertheless espoused the northern side, hoping for a reward far different from what it received. In other territories the two parties were pacified by mutual concessions, as in Colorado, where the press joined admirably in a conciliatory attitude, which won over the vacillating democrats.

Notwithstanding the bitterness of party spirit during the war, marked in some interior and remote regions, as in Idaho and Montana, by riotous proceedings, the taint upon democracy quickly passed away, and the

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party regained power soon after the war, even in such states as Nevada, which owed everything to the republicans. The change was due partly to the influx of southern sympathizers in the ever varying current of mining population, to republican corruption, to the filling of federal offices with little regard for local candidates, and to the growth, under such administration, of monopoly in lands, mines, and other resources, for which democrats promised relief. This party had also so prostituted its principles as to give Africans the ballot. Moreover, its dissensions gave further opportunities to its opponents.

Throughout this strife of parties is exhibited, with rare exceptions, a self-control and subordination to the will of the majority which is in striking contrast with the proceedings of the Spanish-Americans. The latter are deficient in those qualities, as well as in the practical sense so necessary to government and to material advancement. Independence was achieved before they were fitted for its enjoyment. Hence, also, their ready subordination to the beneficent military sway, which has been lately imposed.

The Mexicans had long been used to military rule. Montezuma's empire was upheld by armies, and cross and sword marched side by side in Spanish conquest, while missionaries insisted upon armed escorts for themselves, and for enforcing obedience among neophytes. Armies also held sway during the half century of republican turmoil, installing one leader after another in rapid succession. Hence the present semi-military control is by no means to be wondered at. The system, though it cannot properly be called republican, is indeed finding increased favor, as the happy results of enforced peace and order are becoming apparent, and as the spread of education teaches the value of self-control. This influence is strengthened by the progressive measures of the government, notably by the construction of telegraphs and railways, which facilitate the prompt suppression of re-

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volts. In the United States all this tends to diminish the need for military outposts, by enabling the local police or militia to quell disorder. In other words, the United States has in its population material for a first-class republic, however bad the use that is made of it, while Mexico has not.

Military rule has indeed been at times established by the United States, as after the conquest of California, and in Alaska, which waited for nearly two decades before obtaining even the phantom of a civil government, while the mere presence of the soldiery during a portion of this period was the cause of many a disgraceful riot. Utah was also threatened with bayonet rule, but exhibited so determined an opposition as to oblige the authorities to adopt other measures. The efforts afterward made to suppress polygamy were under judicial power alone.

The militia system was fairly efficient on this coast during its many Indian troubles, although reliance was chiefly placed in improvised volunteer corps. In Utah nearly all the able-bodied men were enrolled in the so-called Nauvoo legion, until the federal authorities suggested the disbanding of so formidable an element among a disaffected people. In Spanish-America the militia system tends toward civil war, and is not, therefore, favored by the central government. In most directions it is degenerating into a political machine and parade body, the latter displaying an absence of proper incentives, and the former being merely used for party purposes. In Wyoming the organization of a militia has been neglected, chiefly through the presence of troops, which rendered it unnecessary, the citizens appearing glad to escape the tax.

The ready and practical organization of government by the Anglo-Saxon has been thoroughly illustrated in the early history of this coast. At the first gathering of miners at a camp, or of settlers round a prospective village, rules were adopted and rulership

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inaugurated, with perhaps a recorder or a justice of the peace, usually under the title of alcalde. Weighty questions were left to a meeting, at which a speaker from a stump or barrel stated the case, and called for approval or rejection by show of hands or ayes and noes.

The lack of prisons and of proper officials in such incipient communities rendered necessary the prompt measures enforced by vigilance committees, in order to protect society from its baser elements. With these tribunals common sense and equity prevailed over technicalities, and justice was as a rule secured, marred only on rare occasions by mistakes—but not more so than in ordinary courts of law—under the excitement which attended many of the popular uprisings against the criminal classes. The efficacy of this terror-inspiring system led to its use in the towns and cities, where the administration of justice and of affairs in general had relaxed under a corruption which clogged political as well as judicial machinery, and where tricky politicians called upon ballot-stuffers to assist them in seizing the reins of government from a people preoccupied with money-making. Such popular tribunals were common throughout the mining states, save in British Columbia, where an early established administration set itself against any meddling with its affairs, and, indeed, by its firm and prompt measures made interference unnecessary.

Crime found additional incentive on this coast in the roaming habits, the gambling mania, the drinking, the revelry prevailing among a venturesome and reckless community, unchecked by family restraint. In Mexico lawlessness found further opportunity in the disorders of the civil war and the general improvidence of the masses.

In Texas the race conflicts of the border, and long-disputed or unprotected boundaries, fostered a marauding spirit, the habit of carrying weapons gave rise to bloodshed among the reckless and dissipated.

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The conveyance of treasures from the mining districts afforded facilities for highway robbery, and compelled express companies frequently to appoint armed messengers for the stages. The live-stock interests in Montana, Wyoming, and Colorado gave rise to bands of cattle and horse-thieves, even better organized than the Mexican banditti, with agencies in different parts. For self-protection the stock-raisers formed a corps of detectives and guards, who soon imposed a check on depredations.

The international wars of Europe, with the attendant raids on the Spanish colonies, led to sea-roving and general robbery on the ocean highways, resulting in the class called buccaneers, so long the terror of the Spanish main. They found a congenial refuge in the disputed borders of Texas, and after a chrysalis season burst forth anew as filibusters, to steal the lands of others under the dignified terms of conquest and liberation. The unsettled conditions and reckless life of the flush times, and the revived stories of gilded border countries in Mexico, furnished fresh motives for such undertakings, which were encouraged, moreover, by the disorderly state of affairs in Spanish-America, and the ease with which small Anglo-Saxon and French armies had held the tableland of Anáhuac. The worst phase of these invasions was the secret support tendered to some of them by officials at Washington, and by party leaders. In the occupation of Oregen a modified phase of filibustering appeared, and in California the Bear-flag party sought to imitate Texas.

Many an eye has been fixed with similar aspirations on British Columbia, as the only section of North America now under control of a foreign power. Yet there is no opportunity for adventurers in that quarter. The influence of the great republic has united with the generous policy of the mother country in establishing there a freedom nearly equal to that which

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is enjoyed in the United States, with reduced taxation, cheap lands, and virtual autonomy of government. The emulation inspired by close intercourse has developed an enterprise and prosperity far above the average of the dominion. The provincial confederacy is a great stride toward independence, which, if desired, could be readily conceded, despite the value of the region, with its transcontinental railway as a bond between England and her Asiatic and Australian possessions. California furnishes the United States with a similar avenue for Pacific trade, facilitated by steamship lines and railways.

In the evolution of government in the mining regions we meet with many peculiarities. In Colorado a so-called claim club followed upon the heels of mining regulations, for recording land-holdings, and promoting settlement of disputes by arbitration. The settlers of Carson valley sought territorial autonomy, although numbering barely a hundred inhabitants, with few permanent settlers. Wyoming petitioned for similar privileges as soon as her first settlements were founded. Idaho emerged as a territory carved out of Washington within a year and a half from the outset of her career. Montana followed within a still briefer period.

A similar eagerness was displayed in the agitation for statehood. Utah has been striving for this privilege since 1849; Colorado petitioned for it on the strength of the first great influx of population, while others were still endeavoring to obtain for her a territorial organization. For this there was a precedent in the promotion of California from a conquered province to a state, without even the usual incubation period. Yet she had enjoyed the dignity of independent statehood in 1836 on the strength of an ephemeral revolution. The conditions as to number of inhabitants are about equal for all the republics on the northern continent, yet in each one congress has

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been capricious in granting admission into the sisterhood. Politicians and parties have combined to exclude many a qualified territory, or to admit others in advance of time. Thus Nevada was introduced by triumphant republicans during the war, on grounds so unstable that a large proportion of her inhabitants was disposed, not many years later, to petition for annexation to California or for a return to territorial simplicity. There may be strong reasons for reconsidering the request of New Mexico and Utah, but to ignore the claims of Washington and Dakota is inexcusable.

During the conquest period governors were autocrats often of the fiercest kind, as was Nuño de Guzman, who has been termed the northern Pizarro. Later, however, their power in Spanish America was circumscribed, and subject to audiencia supervision. In the United States even the military or territorial governors have seldom been guilty of oppression, but the legislatures have been in many instances corrupt, passing disgraceful acts for individual benefit or monopolies, and selling their votes to the highest bidder. Many of the senators from Colorado and Nevada, for instance, are known to have entered the chambers of congress with the golden key. In Idaho a certain body of law-makers has been handed down to history as the guerrilla legislature. Many city councils have been guilty of similar offenses, those of San Francisco squandering her once enormous landed wealth, and later sinking in the pockets of politicians half the money paid as taxes by the people. Oregon, during her informal existence, took the precaution of electing an executive committee instead of one governor.

The effect of such corruption is felt for generations, partly in the dissipation of school-lands and other public possessions, and also in the accumulation of debts. The fault lies not alone in the unwillingness of citi-

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zens to spare a few hours from their business in order to thwart the machinations of unscrupulous demagogues, but also in the heedlessness with which, in former years, they voted to increase the public burdens. Most of the states have inserted in their constitutions prudent debt limitations. Others have exhibited commendable zeal in casting off the load, Montana refunding half a million within a few years. Colorado forbade state, county, or city from pledging their credit, and set an admirable example in managing its school trust so as to augment its value by many millions. The tax-levy has, moreover, been limited to moderate rates. In Utah it was for a long period only six mills on the dollar for territorial and school purposes, and the same amount for counties. Nevada merged her reduced debt in the school funds to the mutual advantage of state and schools. The mismanagement of finances in Mexico, intensified by wide-spread smuggling, and by frequent local revolutions, thus defrauding or raiding the custom-house, brought about foreign intervention, further involving the country.

A source of corruption exists among the electors in the form of what is commonly termed bossism, which prevails especially in the towns. The shrewd politicians, who avail themselves of pecuniary and local interests, religious sentiment, national sympathies among foreigners, and the like, to increase their following, undoubtedly use the collective vote placed at their disposal less for the real benefit of their constituents than for political schemes, and the aggrandizement of certain individuals. Small as the shares become when distributed, the spoils of office form an irresistible temptation to probably one half the town voters to misuse the political trust committed to them.

The labor party in the United States has proclaimed it their chief political object to reform these abuses,

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although its adherents furnish the tools and material for them. Their power manifested itself after the war in different states by the sudden revival of democracy, which gained them over by promises. In California they enforced the adoption of a new constitution, aiming to subject capital to an undue share of taxation. Unfortunately for themselves, they are drifting into partisan currents, away from their professed aim, and seeking to form monopolies of their own class. The very appellation of their leading body, Knights of Labor, is an ironic affectation in a republic, although not out of accord with their peculiar fondness for titles, especially of a military stamp. This tendency is more pardonable among Mexicans, with their taste for glitter and superficiality, nurtured under a régime so pompous as was the Spanish, and though the crown was at first chary of bestowing titles, a number of petty personages, some through wealth alone, attained to the marquisate first granted to Cortés.

Bossism is one of the main props of the money power in politics, which asserts itself on this coast in so objectionable a degree. Daily do we behold the purchase and sale of citizens' ballots, judicial decisions, legislative votes for the senatorship, or special acts in favor of monopolists, without prospect of allaying the evil, save through the threat of exposure by a not too pure newspaper press. For this is too often influenced by the same potent factors, or by party zeal, or by the base passion of jealousy. The inculcation of higher principles in the rising generation can alone reach the root of the evil.

Herein lies an argument for the extension of the right of voting to the female population, which prevailed in Wyoming, and to some extent in other sections. The influence and tact which mould the family would undoubtedly be of benefit in many public institutions. The conservatism of woman would serve as a balance-wheel to the more radical measures and in-

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novations of the men. In Colorado the constitution approved of female voting, but left it to the males to grant it, which they refrained from doing. In Wyoming the privilege was freely extended, and women were elected as justices of the peace, and summoned as jurors. Opposition appeared, however, and the sex was gradually restricted in office-holding to school superintendencies and similar positions, to which females are eligible in some other states.

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CHAPTER II.

LIFE OF LORENZO SAWYER.

THE CALIFORNIA JUDICIARY — ANCESTRY AND PARENTAGE — A GOLDEN WEDDING — EARLY CAREER — STUDY OF THE LAW — OVERLAND JOURNEY — HISTORIC LAW-BOOKS — AT NEVADA CITY — IN SAN FRANCISCO DISTRICT COURT JUDGE — CHIEF JUSTICE — CIRCUIT COURT JUDGE — PROFESSIONAL VIEWS AND DECISIONS — GRAND LODGE ORATION — THE STANFORD UNIVERSITY — THE CENTRAL PACIFIC — CAREER AND CHARACTER.

THE real strength of a nation, it has been well remarked, consists less in the efficiency of her armies, or in the honesty and ability of her law-givers, than in the character of her judiciary. Certain it is that the advantages of a republican government and of liberal institutions are but imperfectly enjoyed when there does not also exist a wholesome respect not only for the majesty of the law, but for the ministers of the law. In all the economy of civilization there is perhaps no more potent agency than a pure, impartial, and intelligent administration of justice. Nowhere does the page of human history contain more instructive lessons than that whereon have been written and expounded the ethics of the law. From such material it is that national greatness is fabricated, by such influences that it is preserved.

And what shall be said as to our California judiciary, whose existence, compared with that of older communities, is but of yesterday? If in its earlier history there were men who gave cause for reproach, men whose lax and corrupt administration compelled

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the people to arise in their majesty, and execute with their own hands the justice which its ministers denied, all this has long since passed away. In their place are men whose integrity has never been doubted, whose ability has never been questioned, and on whose decisions the public are content to rely. If we have not as yet among us such judicial luminaries as were Coke and Mansfield in England, as were Marshall and Story in the eastern states, there are not a few whose pure and able interpretation of the law, whose comprehensive grasp of its principles, have gained for them a national, if not a world-wide, reputation. Such a man is Lorenzo Sawyer, formerly chief justice of California, and for many years United States circuit judge.

From the shire of Lincoln, England, where for years was the ancestral home of the Sawyers, Thomas and his two brothers were the first of the name to migrate to the western world. About sixteen years after the *Mayflower* cast anchor in Plymouth harbor, their names were enrolled among the first colonists of Rowley, Massachusetts, whence, in 1647, Thomas removed to Lancaster, in the western portion of the colony. Here he was one of a party of five by whom the settlement was founded, and with John Prescott and Ralph Houghton, also among its pioneers, was appointed a few years later one of the "prudential men" to whom all local authority was intrusted. Himself a man of note, John Prescott was the ancestor of some of the most noted men in New England annals, among them being Colonel Prescott, who commanded at Bunker hill, and William Prescott, and William H. Prescott the historian of Mexico and Peru. He was also the ancestor of the present United States senators, Philetus Sawyer, George F. Hoar, and William M. Evarts; and of the former United States senator and attorney-general, E. Rockwood Hoar. No less distinguished were the descendants of his son-in-law, Thomas Sawyer, many of whom

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played a leading part in the war of independence, and the war of 1812, no less than nineteen of the Lancastrian Sawyers serving in the former, and it need not be said in the ranks of the patriots.

In 1636, when Thomas Sawyer first set foot on the shores of Massachusetts, Charles I. was still on the throne, Cromwell had but just entered upon his career, and England was on the eve of the great international conflict which ended with Naseby and the tragedy of Whitehall. Since that date six generations of the Sawyer family have been gathered to their rest, and though much of their history has been lost, that which remains will prove an invaluable legacy to their descendants, not only as a record of ancestral virtues, but as an incentive to generations yet to be.

Of the eleven children of Thomas Sawyer, whose decease occurred at Lancaster, at the age of eighty-eight, his eldest son, also named Thomas, was carried captive by the Indians to Canada, and there with his son Elias, who shared his captivity, built the first sawmill as the price of his liberation by the governor. Of the two sons of Elias Sawyer, the younger, named Elisha, was born at Lancaster in 1720, and fifty years later ended his days at Sterling, Massachusetts, where certain lands and tenements, then for the first time occupied by the family, had been left to him as a heritage from his grandfather. Among his twelve children was one named Thomas, the child of his second wife, and a native of Sterling, whence about 1789 he removed to Plymouth, Vermont. At Sterling were born to him four sons and two daughters, and at Plymouth four sons and one daughter, among the latter being Jesse, the father of Lorenzo Sawyer. Numerous, though widely dispersed are his descendants of the second and third generations, and still more numerous and widely scattered are other branches of the family. Not a few of its members are numbered among the most prominent citizens of Boston, where

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in 1851 a society was formed with Frederick W. Sawyer as president, to collect such records as remained of this ancient and time-honored race.

From Plymouth, Vermont, Thomas Sawyer, the grandfather of Lorenzo, removed to what was then known as the Black river country, in northern New York, the journey occupying seventeen days, or thrice the time that is at present required for a trip across the continent. Here on a Saturday afternoon, in the opening year of the nineteenth century, he reached the present sight of Watertown, in Jefferson county, and selected as his homestead a piece of forest land. On the Sabbath he built for himself a cabin, in which, or in the more commodious structure that took its place, he and some of his descendants have ever since resided. The widow of Laurentius, his grandson, and her two sons were its occupants in April 1890, when Lorenzo last visited it. Near by in the now city of Watertown stands the edifice of the first presbyterian church, organized in 1801 by Thomas Sawyer and others, and of which the former was a deacon, though long before this date his house, wherever located, was always open for the assembling of the devout. His death occurred in 1825, and his wife, *née* Susanna Wilder, survived him by nearly a score of years, outliving her ninety-first birthday. She was a woman of remarkable energy and force of character, supplying the place of a physician, not only in Watertown but in several adjoining settlements. To all her neighbors she was endeared by her kindness of heart, and with her grandchildren was an especial favorite. On parting with them, as one after another went forth to make his way in the world, her advice was: "Be a friend to everyone, and you will never want a friend yourself."

Plymouth, Vermont, was, as I have said, the birthplace of Jesse Sawyer, the father of Lorenzo, and the day the 24th of May 1796. Removing with the family to Watertown when four years of age, after receiv-

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ing such education as the district schools afforded, he began his career as a farmer, which calling he followed throughout his lifetime, though with many changes of location. Soon after attaining to man's estate we find him settled at Huntingtonville, near which, at the town of La Ray, named after a French count who purchased there a large estate, Lorenzo, the oldest of his six children, was born on the 23d of May 1820. In 1835 he exchanged his farm in that locality for one of six hundred acres in northern Pennsylvania, and as most of it was timber land erected there a sawmill. Thence a few years afterward he removed to Ohio, and still later to Illinois. In his vocation he was fairly successful, as could not fail to be the case with a man of his strong intelligence and force of character. Together with his wife, *née* Elizabeth Goodell, a cousin of the celebrated missionary, William Goodell, he had joined the presbyterian church, was a sincere and earnest Christian, and during the religious revivals in northern New York, beginning in 1822, extended to its promoters his sympathy and aid. But perhaps the best description that can be given of the career of Mr and Mrs Jesse Sawyer is contained in the following extracts from the address of their son, Joel Swain, at the celebration of their golden wedding at Belvidere, Illinois, on the 11th of February 1869:

"You accepted the conditions of a laborious life, encountered its difficulties, endured its hardships, and sustained its burdens with the most exemplary courage and fortitude, never yielding to the allurements of ease or the gratification of selfish enjoyments. You wrestled with stern nature, and sometimes with adverse fortune, in the forests of New England, New York, Pennsylvania, and Ohio, and the prairies of Illinois and Minnesota bloom with greater loveliness through your care.

"You have not filled large spaces in the public eye, but your quiet, unobtrusive virtues have shed a

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brilliant lustre on your private life. You have not sought the applause or honors of the world, but you have enjoyed the affection and confidence of your neighbors and endeared yourselves to all those needing your care, sympathy or consolation. You have not labored mainly for the meat that perisheth, but have sought first the kingdom of God and his righteousness, with a sublime confidence that all other things shall be added, which are really needful. You have not sought eagerly nor secured largely what the world is pleased to term success, but who shall say what constitutes success in the vocabulary of angels? Whether you would to-day exchange the success attained by yourselves for all the glittering store of the world's idols, I need not ask.

"To the principles of morality, virtue, and gospel truth early instilled into their minds, enforced by your example, do your children owe whatever of good may appear in their characters, whatever of success they may attain in life, whatever of public or private consideration and esteem they may inspire, and as a fitting return for your care, your integrity, and the other Christian graces illustrated by your daily lives, you now realize the assurance of the sacred proverbalist, that your children shall arise, as we do this day, and pronounce you blessed."

Not long afterward Jesse Sawyer passed away, followed later by his wife who, at the age of ninety-two, was peacefully gathered to her rest, in the home where, sixteen years before, her golden wedding had been celebrated.

To the training received from such parents, no less than to his own efforts, to the training, rather, which made him capable of such efforts, and gave them direction, Lorenzo Sawyer owes the exalted position which he has since attained.

Reared as he was in a home where was the very dwelling-place of honor and simplicity, where as his brother remarked the principles of morality, virtue,

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and truth were early instilled, and enforced by example, it were hardly to be expected that his life should be other than it is, one of singular purity and usefulness, presenting a career on which no breath of reproach has ever rested.

Like other farmers' sons, Lorenzo began early the serious business of life. At an age when most boys are midway in their education, he had learned to do everything that is to be done in the working of a farm. He could plow and sow; he could look after cattle; he could cut logs and raft them; he could mow hay and reap grain, and to this day he bears on his wrist the scar of a wound received while whetting a scythe. Rising before day in the freezing cold he tended the livestock, and worked in the barn until the hour of breakfast and school, returning toward nightfall to complete his task. At ten he could drive an ox-team to the river bank, discharging into the stream a wagon-load of logs, and this he did a hundred times amid the pine forests of this Black river country, then on the verge of the wilderness primeval. In truth it was a hard life he led on this northern frontier, with its harsh and forbidding climate, where four months of uninterrupted sleighing were no uncommon occurrence. But thus was added to the strong constitution inherited from his parents the *robur et aes triplex* which only hard toil and exposure can give; thus were his sinews toughened, his brawn and muscles developed; to this experience it is due that now at the age of three-score and ten Mr Sawyer's powers of mind and body show but slight traces of decay.

From hauling timber Lorenzo turned his attention to selling it, and for this he had a good opportunity when the family removed to their Pennsylvania farm, on which were several hundred acres of choicest timber. At eighteen we find him steering down the Susquehanna river a raft of lumber cut at his father's sawmill, and this he disposed of below the town of

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Harrisburg, a distance of more than 200 miles. During the voyage he read for the first time Campbell's *Gertrude of Wyoming*, and we may be sure that he followed with the keenest relish the story of this beautiful epic, for he was now at the romantic era of life, and to him the history of Wyoming and the Wyoming massacre were ever of absorbing interest.

Let us picture to ourselves the future jurist afloat on his lumber raft on the waters of the Susquehannah. He is attired in his work-day clothes, his right hand on the long oar which serves as rudder, and in the left his book, at which now and then, if the course is clear, he casts a hurried glance. In the centre of the raft is the cooking galley, where his dinner of pork and beans is boiling, and adjoining it is the tiny cabin, where far into the night he pores over his favorite volume. Thus the hours glide past, smoothly as the current of the noble river that bears on its bosom his unwieldy craft. But presently he approaches a critical point. It is the Shemokim dam through the chute of which the stream rushes like a mill-race. At the lower end a rock had been deposited by the floods, the terror of raftsmen, who by a sudden jerk of the oar were often thrown headlong into the seething waters. No more meditation now; but making fast to the river bank, he steps on the wall of the chute and quietly watches his turn. It is not a reassuring sight, for of the score of rafts that are borne through this Charybdis all but one suffer partial shipwreck. But now his time has come. Profiting by what he has seen, without the quiver of a muscle he grasps the oar and pushes out into the stream. The current is furious, with a hell of water on either side of him, and when about midway in the passage his raft just grazes the dreaded rock and for an instant his heart rises into his throat. But it is only a scratch. Another moment and he is out of danger and in due time, his cargo disposed of, he is on his way home with a goodly sum for safety sewed

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into his shirt, wherewith to replenish the family exchequer.

Except for such rudiments of education as could be acquired at the district schools, and for a year or two of study at the Black river and other institutes, Mr Sawyer was entirely self-taught. From early boyhood his evenings and most of the few play hours that fell to his share were devoted mainly to books, pitch pine and tallow candles, furnished him light. There was no gas in those days. At Rutland, some three miles from his home was a public library of well selected works, of which he was not slow to avail himself, riding into town to exchange his books as soon as he had mastered their contents. Mathematics and the physical sciences were his favorite subjects, and like others who have attained to eminence in his profession, he was a natural mathematician. The knowledge which he acquired at school, or from private study, he made more thoroughly his own by teaching, the best of all means of gaining a thorough mastery of a subject, and of discovering one's own deficiencies. Among other places where his services were in demand was the town of Southport, in New York state, where the population was one of more than average intelligence, including several retired merchants from New York city, whose children were placed under his charge.

But it was not as a teacher that Mr Sawyer was destined to make his mark in life. Teaching, as he had not failed to observe, is but a poor calling, except as a stepping-stone to something better. Had he remained therein the state of New York would have had the advantage of an excellent teacher, but the state of California would have lost an excellent judge. It was, however, partly by accident that he was led to adopt the profession of the law. A murder trial was in progress at Watertown, when entering

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the courtroom he listened with the deepest interest. On the bench was a judge of the old-fashioned type, grave, dignified, and formal, but with a thorough knowledge of the law. For the prosecution and defence were two of the ablest lawyers of the day; and as he listened to the speeches on either side, the examination and cross-examination of witnesses, with all the legal sparring incidental to the case, his mind was captivated and he decided to become a lawyer. That he should ever be a judge he did not then imagine, for Mr Sawyer was ever a modest man, and as unassuming as modest; but such are the men whom office and position seek, when called upon to seek at all, which is not often. Meanwhile he kept his intention secret, for by the pious New England people, among whom he was reared, a lawyer was regarded as cousin-german to the father of lies.

At the age of twenty Mr Sawyer made his first appearance in public at the mineral springs at Rome, in Pennsylvania, a summer resort, near which the family then resided, and formerly a portion of his father's estate. It was before one of the Tippecanoe and Tyler clubs, of which during that memorable campaign numbers were formed throughout the land. With much reluctance he consented to make a speech, taking the side of the whigs, to which party at the time he belonged. It was a trying moment when the young man confronted a large audience, his speech prepared, except as to the language, from a careful study of the best orations delivered during the campaign. When he began to speak a feeling of dizziness came over him; but he was kindly received, and soon his embarrassment wore away. As he proceeded he carried with him the sympathies of his hearers, for he possessed in no small degree the power of personal magnetism. When about two-thirds through the speech he had laid out, he made a remark which aroused their enthusiasm, and was followed by a burst of applause long continued. At this point he

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took his seat, although he had much more to say, thus showing that he possessed one of the most able of oratorical gifts, the knowledge when to stop.

But Mr Sawyer had long since discovered that Pennsylvania was not the place for men who possessed no other capital than that which nature had bestowed on them. He would go west, to what exact point he had not determined, but as far as his money would carry him. His parents offered no strong objection, for they had the utmost confidence in their favorite son, though his father promised him a farm if he would remain. So on a summer morning, in 1840, a day or two after his maiden speech, we find him on the stage for Williamsport, whence, by way of the Susquehanna and Juniatta canals, he passed on to Pittsburg, and by the Beaver canal and river to Cleveland and Atwater, the latter in Portage county, Ohio. At Atwater, in the autumn and winter, he taught the district school, meantime assisting one, Deacon Horton, formerly a neighbor and fellow church-member, with his father, in the building of his house. "Lorenzo," said the deacon, thirty or forty years hence, when you get to be a distinguished man, if you should happen to come along back into this region you can point to this house and say you helped to build it." Nearly forty years afterward Mr Sawyer, then United States circuit judge, returned, to find his friend, at the age of ninety-five, still living in the neighborhood. Though he could not remember incidents which had occurred but yesterday, he had not forgotten Lorenzo, or the part he played in the building of the house.

After teaching and studying alternately, as his means permitted, he removed to Columbus, Ohio, near which his cousin, the Reverend Leicester A. Sawyer had just established Central college of Ohio, of which he was president. Here he taught the freshman class in Latin and mathematics, and of

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his pupils there were not a few who, in after life, attained to eminence. Among them were his younger brother, who became one of the most prominent men in southern Minnesota; also George L. Converse, one of the most eloquent of democratic speakers and a distinguished member of congress; John C. Lee, twice lieutenant-governor of Ohio and a colonel in the civil war; Doctor Lathrop, formerly rector of the church of the advent in San Francisco; and Doctor Washburn, rector of the leading episcopal church in Cleveland, who lost his life in the railroad disaster at Ashtabula, also Thomas Carney afterward governor of Kansas. Meanwhile he continued his studies, using to the best advantage every spare moment.

His college education completed, Mr Sawyer entered the office of Gustavus Swan, the leading real estate lawyer of Ohio, who presently withdrew from practice to accept the presidency of the state bank of Ohio, then under the management of a board of control located at Columbus. To this board he was appointed assistant secretary, and while studying law held that position for more than a year, counting money by the million, attending to the correspondence, and examining and reporting on abstracts of title to the land in which the safety fund was invested. Thus it was that he gained his first insight into the business of real estate, listening at times to the advice of the president, while he arranged and signed the bills of the state bank and its fifty branches. He completed his law studies in the office of the late Justice Swayne of the United States supreme court.

In the spring of 1846 Mr Sawyer was admitted to practise in the supreme court of Ohio, soon afterward removing to Chicago, and thence to Janesville, Wisconsin, whence he went to Jefferson on the invitation of Lieutenant-governor Homes, and became his partner upon equal terms. Here it was that he won his

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first important case. It was the leading case of the term, the point at issue being an injunction against a dam, across Rock river, and Mr Sawyer appearing as junior counsel for the defence, with Governor Holmes and the late Chief Justice Noggle for his principals. The injunction was granted, whereupon the latter set forth from town, their business, as they thought, completed. On the following Saturday, when, as it chanced, Mr Sawyer and the judge were hunting together, the young lawyer remarked, "I think, judge, there is something wrong in that decision. The injunction is a little severe, and I don't think our side of the matter was presented in its proper light." "Well," was the answer, "If you think so, why don't you move to modify it?" "Because I am only a subordinate, and it is not my place to take action without consulting my principals." "If you think you can do better," suggested the judge, "I should not hesitate to move and try." On this hint, and without the least presage of what the result would be, Mr Sawyer gave notice to the plaintiff's attorneys that he would move for a modification of the injunction. Much to their surprise, and not a little to their disgust, first that the motion should be made at all, and second that it should be made by a junior in the absence of his principals, the case was decided in favor of Mr Sawyer's client and the injunction so modified as to be harmless. Such a victory, won single-handed against two of the most prominent lawyers in the western states, gained for him no small repute. And now he began to be spoken of as one of the rising men, not only in professional but in political circles, as a man whom the people wanted, in a word as the right man in the right place.

Doubtless Mr Sawyer was the right man, but he was not as yet in the right place; for with his ability and industry, his excellent habits and his rare capacity for work, success was assured wheresoever he cast in his lot. Though even if he remained at Jeffer-

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son the future was full of promise, there were better openings than could be found in what were then the frontier settlements of the west. From the further west, about this time tidings of the gold discovery were being noised throughout the world, and he resolved to go to California, led to this decision partly by reading the newspapers, but more by the sight of a bagfull of nuggets which a successful miner displayed to the wonder-stricken citizens of Jefferson.

Early in the spring of 1850 he set forth across the plains, accompanied by a party of young men from Wisconsin, making the trip from St Joseph to Hangtown in seventy-two days, the shortest time, so far as known, in which the journey had been accomplished by a wagon train. Of that journey no record need here be given, though many of its incidents were published in a series of articles contributed by Mr Sawyer to the Ohio *Observer*, and copied in several western journals, as furnishing most valuable data to those who might follow. Many times since then he has crossed the mountains recognizing many of the places passed when first on his way to the land of gold. He has lived to cross the Rocky mountain range at five different points by rail, and at two by teams.

It was about the middle of July when his party, after nearly three months of travel, enjoyed their first brief rest at Hangtown, in the county whose name has since been aptly applied to the golden state. At this time Mr Sawyer's worldly effects consisted of a small stock of clothing, a smaller stock of money, a copy of Shakespeare presented to him by Professor Bosworth of the Black river institute, and eleven volumes of law books, the latter hermetically sealed in a tin case purchased for the purpose. To pack these books across the mountains had already cost him the sum of fifty dollars and, as we shall see, this little library was destined to play an important part in his career and become historic.

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After a brief experience in mining, mainly at Coloma, where gold was first discovered, he concluded that his profession would be to him a richer mine than any he was likely to discover. Sacramento was then the paradise of the profession, where many a costly land and mining suit was decided at every term of court. Here he arrived in no very cheerful mood, sleeping in barns by the wayside, with his clothes worn out, and himself in the same condition from exposure, hardship, and excessive toil. Still he faltered not; nor was he discouraged, accepting as the first work that was offered the copying of the assignment of the then great banker and bankrupt, Barton Lee, for which he received an ounce of gold-dust. But for a man of Mr Sawyer's ability, there was no occasion to hide his head under a bushel, and soon we find him in partnership with the city recorder and police judge, Frank Washington; then sickness came upon him, a sickness contracted during his overland journey, and for several weeks he was unable to work. At this juncture began the squatter riots, and of these he was one of the spectators, dragging himself from his berth under the common council room to witness the scenes that followed. He saw the dead and wounded as they fell and before removed from the street, among whom was Mayor Bigelow, who afterwards died from his wounds.

In October of 1850, Mr Sawyer, in order to recover his health, removed to Nevada city, where he practised his profession until the autumn of 1853, except for a few months spent in practice at the capital and the metropolis, where he formed a partnership with Judge Roderick N. Morrison and his nephew, Frank M. Pixley. Not least among the causes that led to his success in Nevada was his law library. True it consisted only of eleven volumes; but at that time good law books were scarce, more so even than good lawyers. His works included *Blackstone, Chitty on Contracts, Smith's Mercantile Law, Story's Equity Juris-*

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prudence, Wilcox' Practice, Swan's Justice, a book of Ohio practice, and *Greenleaf's Evidence.*

The history of these books is worth relating, for few persons or things passed through more perils from desert, fire, and flood, than did these eleven volumes. First of all, they narrowly escaped being left at the sink of the Humboldt river, where some of the wagons were deserted, and the labor and cost of carrying them further were great. They were once thrown out, but a friend who left his wagon consented to pack them in, and thus they were saved. In May 1851 their owner and his partners were settled in a second floor office on Commercial street, in San Francisco, which also served as bedroom. At that date fires were frequent, so frequent that they thought little of them. After several alarms that proved of no consequence, Mr Pixley vowed that in case of another alarm he would not stir from his room until the walls were hot. He had not long to wait. About midnight on the fourth of May he was roused from sleep by Sawyer, who quietly remarked: "Frank, you had better get up; the walls are getting hot." There was barely time to pack their loose effects in blankets and to reach the street, when the fire was upon them, and they were obliged to pay $50 for the use of a dray to convey their property to the custom-house building on California and Montgomery streets, then the southern limit of the city, and, as they thought, a place of safety. But the fire, leaping from building to building, travelled almost as fast as the dray and finally swept away everything down to the bay. There was now no alternative but for each one to seize what he could carry and escape from the track of the conflagration. Shouldering the trunk which contained his clothing and papers, Sawyer carried it beyond reach of the flames, and gave up his books as lost to him forever. But two days after it was reported that some property of his was on board a vessel lying in the stream. And so it proved. Seeing the blankets

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and their contents, close to what was then the water-front, somebody had rescued them and put them on board the ship then lying at the wharf. She cut loose and swung into the stream, and there they lay uninjured. Much other property was found on the same ship.

Again, a few weeks later, on the 22d of June, the fire-bell tolled a general alarm, and as Sawyer was breakfasting with Pixley, at the Jackson street restaurant, the flames came roaring down upon them, once more sweeping the city out of existence, except a few buildings on the west side of the plaza. Discouraged by these calamities, a month later found Mr Sawyer en route for Nevada city, journeying by way of Marysville. At a hotel at the latter place he left his trunk, containing his clothing and books, for as yet he had not decided where to locate, and took stage for Nevada city. Next day after his arrival came news that the city of Marysville was burnt to the ground, including the hotel, which stood in its centre. Supposing, of course, his trunk was destroyed, Sawyer dismissed the matter from his mind, and settled himself to work. But the books were not made to be burned; they were not so predestined; for books, like men, have a destiny to fulfill. In the following week a teamster drove up with goods for Clark's drugstore, in which was Sawyer's office. The teamster's name, as now remembered, was Oglesby, afterward governor of Illinois. Introduced to Mr Sawyer he inquired his Christian name. "Lorenzo," was the answer. "Well," said the teamster, "I saw a trunk with the name of Lorenzo Sawyer on the card about a mile from Marysville, stored in a large house with other property saved from the fire." The trunk came safe to Nevada on the next trip of the teamster. Some six years later Mr Sawyer went east, as he thought to remain, and after some further adventures, the books —except Shakespeare and Blackstone—were transferred to the law firm of Buckner and Hill, with the

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rest of his then quite respectable law library. By them they were afterward disposed of to A. A. Sargent, and by him to the county of Nevada, where, after escaping a fire or two in Nevada, in the public library they found at length a resting-place. Here, after the lapse of a quarter of a century, Mr Sawyer again caught sight of his immortal volumes, whose history is not unlike that of the typical California adventurer. Shakespeare and Blackstone afterwards went east around Cape Horn and came back to California as slow freight by the Isthmus, upon sailing vessels. They are now in Judge Sawyer's library. Blackstone is the copy in which Judge Sawyer read his first law. It was the gift of the president of Central college.

Many were the interesting cases which Sawyer tried at Nevada city, after a careful preparation at his office, connected with the drugstore, consisting at first of a few square feet near the sidewalk, if sidewalk there was, and for furniture a single chair, a paper clip, and a table, fashioned by his own hands of shakes or barrel staves, and serving at times as dining-room table for the al fresco meals of which he was himself the cook. For his first case he was indebted to the doctor and druggist, who besides being his messmate acted as dish-washer for the household. It came about in this wise: One day the druggist invited to dinner three miners with whom he was acquainted. After being introduced to Sawyer one of them remarked: "I understand you are from Ohio?"

"Yes, I am from Ohio."

"You have not been here long?"

"No, I have only just come."

"Have you ever tried any of these mining suits"

"No, but I would like to get a chance to try one."

"I suppose you know the principles they depend upon?"

"I believe that I understand them. We have to go to the witnesses for both law and facts, I believe."

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"Well, we are from Ohio, and have a suit. If you think you can manage the case I will give it to you. We have got into a little difficulty over here on Gold flat. We had taken up a claim and were working it, but a company from Tennessee has jumped it and we want to recover."

The man then stated his case in detail, whereupon Sawyer replied that if his statements were proved he thought the suit could be won. As this was Sawyer's first mining case, a fee of fifty dollars was agreed upon and paid down—a small amount for a mining suit in the days of fifty-one; but Sawyer had not yet learned how to charge,—about the only part of his profession in fact that he has never thoroughly learned. On the same day the complaint was drawn, and within forty-eight hours suit was commenced and summons served on the defendants. The opposing counsel, one of whom was Judge William T. Barber, were able and experienced lawyers, rating Sawyer, who stood alone, as little better than a novice. But they did not know their man. At every step the case was stubbornly contested, from the pleadings to the closing argument on either side. For the plaintiff the witnesses were for the most part from Ohio, for the defendant they were southerners, and so conflicting was their testimony, that perjury was clearly committed on one side or the other. After a three days' trial the jury retired to consider their verdict; and believing that they could not agree, and would probably be locked up for the night, Sawyer went home to dinner. While at table a shout was heard, and presently a number of men ran up to the store. "Where is Sawyer?" cried the leader. "We have won our suit. Where are your scales?" And without further phrase he weighed out, with a heavy down thug, another fifty dollars' worth of gold-dust.

But the most important case, and the one which helped more than any other to establish his reputation, and the one more than any other ever tried by

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him that affected his future destiny, was the Rough and Ready mining suit, tried in the town of that name before E. W. Roberts, afterward county judge and state senator, and involving the possession of a claim on Yuba river valued at several hundred thousand dollars. Sawyer appeared for the plaintiffs, and for the defendants Judge Townsend was the leading counsel. As the parties to the suit were numerous and wealthy, it was said to have been agreed that all the hotel bills, including wines and cigars, for clients and witnesses, jury and lawyers, should be included in the costs, to be paid of course by those who should lose the suit. At the close of the trial it was found that the legal costs amounted to nearly $2,000, with hotel bills of more than double that amount. The whole surrounding country took an interest on one side or another.

During the progress of the case the two hotels of Rough and Ready were crowded with guests, and among them were several ladies, all of whom took sides with the contestants, who, it was said, had their spies in the opposing camp. At the first trial the jury disagreed, and at the second, after a ten days' struggle, the jury retired at one o'clock on a Sabbath morning to consider their verdict. Sawyer made the closing argument. A few minutes later they returned into court, or rather into the warehouse where the cause was heard, with a verdict for the plaintiffs. The scene which followed was such as had probably never been witnessed in Rough and Ready. Amid deafening cheers and tossing of hats, Mr Sawyer, before he could escape from the uproar, was forced into a chair and borne in triumph on the shoulders of his excited clients to his hotel, surrounded by a surging throng shouting "Hurrah for Sawyer!" In the same way, but with less enthusiasm, they treated Justice Roberts; and then came the serious business of the evening, or rather of the morning; but this we will leave to the reader's imagination, remarking only

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that Rough and Ready was then one of the richest mining camps in the state, and that saloons and dance-houses were plentiful. In the orgies which followed it need not be said that neither judge nor counsel participated.

Many were the amusing incidents of these early days, and many the pleasant hour that is still passed in recalling them. But not always were they amusing. For days at a time Mr Sawyer has been in peril of his life, his footsteps dogged by men who had vowed to take his life. On one occasion, while addressing a jury, at night a man who nursed a fancied wrong was about to strike him on the head from behind with a long block of wood, which had the blow fallen would probably have ended his career, but the raised hand was seized by the sheriff and another friend. At another time his partner, E. F. W. Ellis, was commenting sharply on the evidence of a witness from Tennessee, and from whom he was separated only by the table in front of which he stood. The man drew his revolver, but quick as a flash the other leaped with drawn knife over the table, and almost as quickly his would-be assassin was in the street. Here it may be mentioned that by Mr Ellis was framed the first sole traders' act, and that mainly by his efforts its passage was secured. At the outbreak of the civil war he enlisted as a volunteer, was promoted to the colonelcy of the 15th Illinois regiment, and at Shiloh devoted to the cause of his country the life which the southerner had imperiled.

In the autumn of 1853 Mr Sawyer again removed to San Francisco, and there, except for an occasional visit to the eastern states, and a short sojourn to Illinois, he has ever since resided. A few months later, at a time when litigation was constant, and when the city was involved in many suits, he was elected city attorney. Of this portion of his career it need only be said that during his term no judgment was ren-

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dered against the city, while of those which were given in its favor only one was reversed on appeal. So ably did he conduct his cases, that in the following year when a candidate before the convention for nomination as supreme court judge, he was defeated only by half a dozen votes. But, as we know, influence, rather than character and ability sometimes carries the day in such matters.

In the spring of 1861 we find Mr Sawyer in Washington, where he first made the acquaintance of Leland Stanford. At the moment it was not the intention of the former to return to California, for he had been widely recommended for the chief-justiceship of Colorado, then recently organized as a territory and with good prospect of success. But said his friends from the golden state, of whom there were many in the capital, "Why go to Colorado? Go back where you are known. The highest position on the Nevada bench is open to you." He abandoned his candidacy for the chief justiceship of Colorado and sought the appointment for Nevada in preference. But fortunately perhaps for himself, and certainly for California, another was appointed to the office. A fortnight later he with his family was on his way to New York en route for San Francisco.

The week which Mr Sawyer passed in the great metropolis, while awaiting the departure of the steamer, was probably the most stirring experience of his life. On the first day of that week the roar of cannon at Fort Sumter had proclaimed to the world the opening of the civil war, and all was turmoil and confusion. Business was not to be thought of; in its place was the tramp of armed men and the crash of military bands. Every day, and sometimes thrice a day, ships laden with troops for the defence of Washington cast loose from the crowded piers. It was a spectacle such as few have witnessed, such as few would care to witness; one sadder even than was seen in Brussels on the eve of Quatre Bras.

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Soon after returning from the east Mr Sawyer entered into partnership with General Charles H. S. Williams, one of California's ablest lawyers. At that date the Comstock lode was beginning to reveal its marvellous wealth, and endless were the lawsuits arising from conflicting claims. About the close of 1861, the firm decided to open a branch office at Virginia city and of this Mr Sawyer was placed in charge. On New Year's day of 1862 we find him in the streets of Sacramento, or rather in the water which covered its streets, for it was a year of flood, and the city lay in the midst of a vast inland lake. Rowing in an open boat to the highlands, he journeyed by train to Folsom, and thence by stage to his destination, where he was at once acknowledged as the leader of the bar.

On May 27th of this year, while trying an important case, he received by telegram from Governor Stanford an offer of the judgeship of the twelfth district court, made vacant by the resignation of Alexander Campbell. For a time Mr Sawyer hesitated. He had been retained in most of the great mining cases pending at the time, for which apart from large contingent interests, his fees would have amounted to more than the total sum he has since received for thirty years' service on the bench. But while not underestimating the value of money, there were other things which he valued more, and among them the happiness of his wife and family, for whom there could be no attraction in Virginia city. After exchanging messages with Mrs Sawyer, therefore, he decided to accept, on the same night the trial was finished, and on the following day he was en route for San Francisco, crossing the snow-covered mountains on horseback to the point where a road was open for vehicles. Reaching Sacramento only a few minutes before the steamer sailed, he ran to the governor's office and thence, his commission in hand, to the wharf. The boat had

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put off, and from it he was separated by several feet, but clearing the space with a bound he landed safely on deck and soon after nightfall reached his home on Saturday night. On Monday morning he opened court at Redwood city.

For the twelfth judicial district, including the counties of San Francisco and San Mateo, Sawyer was soon afterwards chosen for the full term, and without opposition, both parties placing him in nomination. Under the provisions of the state constitution, as amended in 1863, he was elected on the republican ticket judge of the supreme court, and on casting lots drew the six years' term, for the last two of which he was chief-justice. In 1869, when the circuit courts of the United States were re-organized by act of congress, he was nominated by President Grant circuit judge for the ninth circuit, comprising all the Pacific states. The nomination was confirmed by the senate without a dissenting vote, and early in the following year Sawyer entered upon the duties of the office which he has ever since retained.

Except perhaps Justice Field, Judge Sawyer has been called upon, during his long career on the bench, to decide more questions relating to the settlement and preservation of land titles than any member of the judiciary. Of late years there have been many efforts to set aside the patents issued after years of litigation to Spanish grantees. In these cases parties whose claims were long since barred by the statute of limitation have received the permission of the attorney-general to bring suit in the name of the United States, thus renewing the litigation twenty or thirty years after the issue of the patent, for in such cases the statute of limitation does not apply to the United States. Of this class were the suits of the United States versus the San Jacinto tin company, United States versus Throckmorton, United States versus Carpentier, and many others. The judgment rendered by Sawyer in favor of the defendants

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was in every instance affirmed, much to the relief of land owners, for had it been otherwise, a distrust would have been created of all titles derived under Spanish grants. Next in importance were the mining debris suits, of which the more important cases, including that of Woodruff versus the North Bloomfield mining company, were decided in the circuit court. The other great cases decided by Judge Sawyer are too numerous to specially mention.

Such, in brief, is the professional career of Lorenzo Sawyer, extending over well-nigh half a century, for nearly thirty years of which he has been one of the most honored members of our judiciary. To the other members of that judiciary it is no injustice to say that by his learning and ability, by his industry and research, and above all by his perfect integrity, he did as much as any living man to give to the tribunals of California their high repute. If he is not a man of genius or of brilliant parts—to such qualities he never laid claim, nor are they wanted in a judge—he possesses what is far better than genius, a fund of sound, practical, common sense, and the business capability which, in a measure, his position demands. By none is he excelled in the patience and application which he brings to bear on his cases, probing them to their inmost depths, dissecting them, and weighing the points at issue with the surest discrimination. Said the *American Law Review*, then published at Boston when Sawyer was chief-justice of this state: "The history of California is a history of marvellous phenomena, and not the least is its jurisprudence. Less than twenty years ago the common law was unknown on the Pacific coast, and to-day we find the supreme court of California holding it with a comprehensive grasp, and administering it with an ability decidedly superior to that shown by the tribunals of many much older communities."

Law, Judge Sawyer regarded as a progressive science, whose principles must be adapted from time

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to time to the ever-changing condition of human affairs. Take, for instance, railroad and corporation laws. Those which existed half a century ago are not a tithe of those which now exist, and perhaps not the hundredth part of those which will exist half a century hence. Even in the older and long-settled states, as in New England, even in England herself, new questions are constantly arising; much more so is this the case in the far west, and especially in California, with her numberless statutes relating to mining and irrigation. In early days the civil law of Spain, as modified by Mexico and California, was the one in force. There were no law libraries, and even the language in which the statutes and laws were expressed was but little understood. Gradually the civil law was discarded, or consolidated with the common law, many suits begun under the former being concluded under the latter. In fact, a new system of laws has been developed, especially as to land titles, for many years a fruitful source of litigation.

As to the functions and character of the judiciary, Judge Sawyer remarked at a meeting of the associated alumni of the Pacific coast, on the 3d of June 1868, "In my judgment it is impossible for an enlightened people to prize too highly a thoroughly capable, watchful, honest, independent, and fearless judiciary. Such a judiciary is not only the safeguard and the hope of American liberty, but is the principal stay and support of freedom, and of the social fabric everywhere. The administration of justice and its handmaid, religion, although perhaps in a form in some degree rudimental, march hand in hand in the van of civilization. They also in their more perfect development constitute the crowning glory in the meridian splendor of every enlightened age. As these elements in the social economy become corrupt, gradually decline and disappear, the twilight of a waning civilization again shades away into the

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night of barbarism. There can be no assured enjoyment of civil liberty, no social security, no permanently advanced stage in the development of our race, no stability in the institutions of civilization, where there is no honest, effective, and fearless administration of the law; where the fountain of justice is not pure, and where its stream is not allowed to flow freely and without obstruction, and unaffected by disturbing influences. On the other hand, wherever the laws are faithfully administered by a capable, independent, and fearless judiciary; wherever strict justice is meted out to every individual, whether rich or poor, high or low; wherever the thatched cottage of the lowest born is the castle of the proprietor, which, while the winds and rain may enter, the king may not; wherever the judiciary is no respecter of persons, always holding the scales of justice even, with an 'eye single to the trepidations of the balance'—there no remnant of barbarism will be found. In the words of one who clothed his great thoughts in language second only in terseness and felicity of expression to that of him who spake as never man spake: 'Justice is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, general happiness, and the improvement and progress of our race. And whoever labors on this edifice with usefulness and distinction—whoever clears its foundation, strengthens its pillars, adorns its entablatures, or contributes to raise its august dome still higher in the skies, connects himself in name and fame and character with that which is and must be as durable as the frame of human society.'

"Mr President, since justice is the great interest of man on earth, it is gratifying to know that wherever and whenever the judiciary has been independent and untrammeled, except so far as it is

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bound by the just principles of the law itself, there have been found men fully equal to the task of its intelligent and pure administration. True, it falls to the lot of but few in any one generation to officiate in the highest sanctuaries of justice, and to fewer still to rival those judicial Titans,

'The law's whole thunder born to wield.'

"But, sir, I cannot believe it possible that one endowed with fair natural abilities, a sound and unbiased judgment, who has cultivated his talents with diligence and care, and become well grounded in the ethics of the law, who has risen to a true conception of the magnitude, and become thoroughly penetrated with the vast importance of the mission of the judiciary, in its relation to the well-being of man, and the stability of good government, can make a bad judge. Such a man may not attain to the summit of judicial greatness; he may not be a brilliant luminary, shedding his light afar, imparting aliment and warmth to nourish and promote the administration of justice in distant lands; but he cannot fail to be a worthy judge, and useful in the immediate sphere of his influence; he cannot fail to contribute in some degree to the perpetuity of free institutions."

Sawyer's reputation as a jurist has long since become national, and among other recognitions of his attainments and services it may be mentioned that in 1877 the honorary degree of doctor of laws was conferred upon him by Hamilton college in New York. His decisions, as contained in fourteen volumes of *Sawyer's United States Courts' Reports* and in fifteen volumes of the *California Reports*—volumes 24 to 38 inclusive—are among the classics of the law. From these decisions the following extracts may be of interest. In the case of Tiburcio Parrott on *habeas corpus*, arrested for employing Chinamen, in a manner prohibited in the new constitution, his ruling was as follows:

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"Holding, as we do, that the constitutional and statutory provisions in question are void for reasons already stated, we deem it proper again to call public attention to the fact, however unpleasant it may be to the very great majority of the citizens of California, that, however undesirable, or even ultimately dangerous to our civilization an unlimited immigration of Chinese may be, the remedy is not with the state but with the general government. The Chinese have a perfect right, under the stipulations of the treaty, to reside in the state and enjoy all privileges, immunities, and exemptions that may be enjoyed by the citizens and subjects of any other nation; and under the fourteenth amendment to the national constitution, the right to enjoy life, liberty, and property, and the equal protection of the laws, in the same degree and to the same extent as these rights are enjoyed by our own citizens. To persist in state legislation in direct violation of treaty stipulations and of the constitution of the United States, and to endeavor to enforce such void legislation, is to waste efforts in a barren field, which, if expended in the proper direction, might be productive of valuable fruit, and, besides, it is but little short of incipient rebellion."

Among his most exhaustive decisions was the one in the matter of Deputy United States Marshall Neagle on *habeas corpus*, the charge against him being the shooting of David S. Terry. After a most careful statement of the facts and law in the case, including the circumstances under which Terry was shot, he concludes: "On that occasion a second, or two seconds, signified at least two valuable lives, and a reasonable degree of prudence would justify a shot one or two seconds too soon, rather than one or two seconds too late. Upon our minds the evidence leaves no doubt whatever that the homicide was fully justified by the circumstances. In our judgment he acted, under the trying circumstances surrounding him, in good faith,

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and with consummate courage, judgment, and discretion. The homicide was, in our opinion, clearly justifiable in law, and in the forum of sound, practical, common sense, commendable. This being so, and the act having been done in pursuance of a law of the United States, as we have already seen, it cannot be an offence against, and he is not amenable to the laws of the state.

"Let the petitioner be discharged."

This is the suit of Cunningham versus Neagle, wherein the propriety of killing Terry was involved. Judge Sawyer's opinion in this case, as affirmed by the supreme court, has probably been more widely read than any that has been delivered from the bench of the United States. On this ruling he received complimentary letters from every section of the union, from Canada, from England, Germany, and other European countries, and even from Japan. The stand which he took was a bold one, but not more so than the occasion demanded, claiming for the national government all the powers of a nation, including that of self-protection in all its departments.

In politics Judge Sawyer was in youth a whig, a disciple of Daniel Webster, Henry Clay, and other great leaders of the party whose names and deeds alone survive, and whose principles are closely blended with all that is best worth preserving in our national policy. One of those who organized the republican party in 1856, he attended the Chicago convention, and though not a delegate, did all that lay within his power to secure the nomination of Abraham Lincoln. In his political, as in his judicial career, he has aimed always at the right, and if on rare occasions his judgment has been questioned, none have ever doubted his honesty and sincerity.

Since 1845 Judge Sawyer was a member of the society of odd fellows, and since 1858 a royal arch mason. Of the few addresses which he made in public, perhaps the one which has been most

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widely read and commended, one that was complimented in the reports of all the grand lodges of the United States, was the oration delivered in October 1879, before the grand lodge of California. After tracing in choice and vigorous language the history of masonry, from the days of Solomon to the time when, less than twenty years ago, a grand lodge of the order was opened under the shadow of the Vatican, he continues:

"Much use of the element of secrecy, by means of which brothers of the fraternity recognize each other among strangers and protect themselves from imposition, was formerly made by the enemies of the order for the purpose of inflaming the prejudices of the ignorant and the jealous, and doubtless with some effect. The publication of the proceedings of the grand lodges authorized during later years has, however, tended largely to allay these prejudices. In these published proceedings the essential workings of the order are laid open to public examination and criticism; and no one can read them as they appear from year to year without being strongly impressed with the good tendencies of the principles of masonry in all their practical, as well as speculative workings, as is there made known to all. We are no propagandists. We extend a special invitation to no man to enter the precincts of masonry. If one seeks admission to our society, it is unsolicited and of his own free, unbiased will, after a full investigation of our principles and their practical operation; and the fact that so many intelligent men, among the most orderly and worthy classes of society, seek association with us is ample evidence that our principles meet the approbation of good men, and that their tendencies are all to good order and to the highest interests of society at large. Speculative masonry is not, and it does not profess to be, a religion or a substitute for religion; but it inculcates a system of the purest morals, which is an essential

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element and necessary concomitant of all true religion. There are certain elements or principles which are universally accepted as essential to all systems of faith worthy the name of religion—such as a belief in a supreme being; a recognition of the moral distinction between right and wrong; the obligation to recognize and cultivate the practice of all the virtues, such as temperance, sobriety, chastity, fortitude, prudence, justice, and, chief of all, charity. On these principles all must and do agree. There are other points of faith upon which the reason may and does pause, inquire, doubt; and yet it is upon these latter that zealots and enthusiasts dogmatize most confidently, dispute most furiously, and hate most implacably. It is upon these very points where we should be most distrustful of the correctness of our judgment and most charitable toward the views of others, that man is most confident, most obstinate, most uncompromising; and it is upon these where he consigns his fellowman to the dungeon, stretches him upon the rack, and burns him at the stake. Into that disputed territory masonry does not enter. Its leading tenet, charity, forbids; all its principles prohibit it. It accepts and plants itself upon those self-evident and universally accepted principles which lie at the foundation of all true religion and all morality, and upon the recognition and practice of which all human happiness must rest. It earnestly and constantly inculcates those principles in its charges in the lodge-room, its lectures, orations, and writings, and in all its proceedings, published and unpublished. It admonishes us to seek after truth, and teaches that truth is an attribute of divinity and the foundation of every virtue. In the language of another, already familiar to you, which cannot be improved or too often repeated in your hearing, the mason 'is instructed to put a due restraint upon his affections and passions; to preserve a noble and steady purpose of mind, equally distant from cowardice and

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rashness; to regulate his life by the dictates of reason; and to render to every man his just due, without distinction. In short, the three great duties of life are impressed upon his conscience: 'reverence to God, the chief good; kindness to his neighbor, as prescribed by the golden rule, and respect for himself, by avoiding irregularities and intemperance, which impair the faculties and debase the dignity of his profession.'"

One of Judge Sawyer's last orations was at the laying of the corner-stone of the Leland Stanford Junior university, in virtue of his office as president of the board of trustees. After stating the object and scope of the institution, he said: "The little grove in the suburbs of Athens, which Academus presented to the Athenians, constituted the academy in which Socrates, and Plato, and their disciples taught their pupils philosophy, rhetoric, logic, poetry, oratory, mathematics, the fine arts and all the sciences so far as then developed. The influence emanating from those schools, notwithstanding their limited resources, has been largely felt through all succeeding ages; and it has, to this day, given direction to thought, and contributed largely to mold the characters and the civil institutions of all the peoples of Europe, and their descendants in America, and wheresoever else they may be found on the face of the earth. The people of that little republic of Attica,—the whole area of whose territory was only about two-thirds as large as that of the county of Santa Clara, in which our coming university is located—exercised a greater influence over the civilization, institutions, and destinies of modern nations than any other people, however great.

"The groves of Palo Alto—the tall tree—are much larger than Academus' sacred shade. These sturdy, umbrageous oaks, with Briarean arms; these stalwart, spreading laurels, and these tall eucalypti

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are much grander and more imposing than the arbor-tenants of the grove at Athens. The soil of Palo Alto is far richer, and more productive than that of Attica; it yields as fine wheat, as delicious figs, grapes, olives, and other fruits. Its scenery is almost as grand and awe-inspiring, and quite as picturesque. Its climate is as dry, equable, and delightful. The arroyo de San Francisquito is as flush and turbulent in winter, if—although abundantly supplied for all purposes of the university above—as waterless in its lower reaches in summer as the two rivulets Cephissus and Ilissus. The transparent clearness and coloring of our sky is as matchless as that of Attica, and the azure dome above our heads by day or night is as pure and as brilliant as the violet crown of Athens. All our conditions are equally favorable to health, to physical and mental development, and to physical and mental enjoyment. Not an hour in the year is so cold as to interfere with mental or physical labor, nor an hour so hot as to render one languid, indisposed to physical or mental exertion, or as to dull the edge of thought. There is not a place in our broad land outside our own beloved state, where one can perform so much continuous physical or mental labor without weariness or irksomeness. Should the plans of the founders of the Leland Stanford Junior university be carried out in accordance with their grand conceptions, with such advantages as the location and climate afford, why should not students be attracted to its portals, not only from California, but from all other states of our vast country, now containing 60,000,000 of people, and even from foreign lands? What should prevent this university from becoming in the great future the first in this, or any other land? When fully developed, who can estimate its influence for good upon the destinies of the human race?

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"A word to the founders of the Leland Stanford Junior university. It is fit that the corner-stone of this edifice should be laid on the anniversary of the birth of him, who, while yet a mere youth, first suggested the founding of a university—a suggestion upon which you have nobly acted, and to the establishment of which you have devoted so large a portion of the accumulations of a most energetic, active, and trying life. It is eminently fit that an institution founded and endowed on that suggestion should bear his name. The ways of providence are inscrutable. Under divine guidance his special mission on earth may have been to wake and set in motion those slumbering sentiments and moral forces which have so grandly responded to the impetus given, by devoting so large a portion of your acquisitions, and the remainder of your lives to the realization of the object thus suggested. If so, his mission has been nobly performed, and it is fit that both his name and the names of those who have executed his behests should be enrolled high upon the scroll of fame, and of the benefactors of the human race. You have wisely determined, during your lives, to manage and control for yourselves the funds of the foundation; to supervise and direct the arrangement and construction of the buildings and the required adjuncts, and to superintend and give direction to the early development and workings of the new university. This is well. He who conceives is the one to successfully execute. May you remain among us to manage and control this great work, until you shall see the institution founded by your bounty firmly established on an immovable basis, enjoying a full measure of prosperity, affording the citizens of your adopted state the educational advantages contemplated, and dispensing to all the blessings and benign influences that ought to flow from such institutions. Long may you enjoy the satisfaction afforded by hopes fully realized—*Seri in cælum redeatis.*

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"Fellow-members of the board of trustees of the Leland Stanford Junior university, in accepting this grand trust you have assumed the most weighty responsibilities, not only to the founders of the university, but to the children and youth of the commonwealth and to their posterity in all time to come. You have assumed the guardianship of the vast inheritance to which they have fallen heirs. In the near future, and thenceforth till time shall be no more, the duty will devolve upon us and our successors to administer this inheritance in such manner as to accomplish its great ends.

"Should we succeed in establishing and fully developing the new university in accordance with the conception and purposes of its founders—as succeed we must with proper efforts, and proper management, and with the aid and blessing of the omnipotent and all-wise being, who created all things, and without whose approval we can accomplish nothing—its power for good will go on from age to age to the end of time increasing and expanding until no corner of this broad earth will be beyond its humanizing, elevating, and benign influences. Invoking the divine blessing on our work, let all put forth a united continued effort to secure a consummation so devoutly to be wished. When this shall have been done, and the Leland Stanford Junior university shall have been once securely established upon a firm and stable basis, we may exclaim with unhesitating confidence that the idea will be fully realized, *esto perpetua*!"

It was in 1861, as I have said, that Judge Sawyer first made the acquaintance of Senator Stanford, and in the great railroad enterprise of which the latter was one of the projectors, he rendered most valuable assistance. When ground was broken in February 1863, the project was regarded rather as a joke than as a serious undertaking. The efforts made by Governor Stanford and his associates to secure the aid of San Francisco capitalists were utterly without

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avail. Still they pressed on until, when the line was completed to Newcastle, their funds were exhausted. Had it stopped there, it is by no means certain that we should have had a transcontinental railroad to-day, and it is certain that its construction would have been delayed for many years. No movement had been made on the other side until it was fully demonstrated on this side that the road would be built. At this juncture, in April 1864, an act was passed whereby the state became responsible for the interest on $1,500,000 of bonds. The measure was vigorously assailed and by many pronounced unconstitutional. A bill was immediately filed by the attorney-general to restrain the issue of the bonds, and on both sides the case was ably and elaborately argued, the judges failing to reach a conclusion. Finally Judge Sawyer took up the matter, for it was one in which he felt the deepest interest, knowing, as he did, that the building of the road depended on the result. After a careful study of the statute he decided that it was constitutional and in this opinion he was sustained by the other judges, with but a single and that only a partial exception. The Central Pacific was thus enabled to carry forward its work to the point where the government subsidy became available, and that work was never interrupted until the last spike was driven.

On the day when the first pick was driven into the ground at Cape Horn, Judge Sawyer stood on its summit, looking down upon this work, and for several days he was in company with the engineers when locating the route around Donner lake, and deciding on which side of its waters the line should be extended into the valley below. From its inception until its completion he watched with the deepest interest the progress of the greatest railroad enterprise of the age, and to him it has been a source of satisfaction that he was enabled to contribute to its success.

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On the 10th of May 1869, when the Central joined hands with the Union Pacific, he thus wrote to his cousin, the former president of Central college, Ohio: "The great work has been accomplished. The last rail has been laid, the last spike driven, and the iron wedding of the east and the west has this day been consummated. We are now united by iron bands, never more to be severed. Wonderful achievement! What a change in twenty years! What a contrast between the weary journeying of months' duration, by the pilgrims of 1850, whose jaded animals, 'like a wounded snake, dragged their slow lengths along,' and the lightning speed with which the iron horse, 'like swift Camilla, skims o'er the plain.' In 1850 the emigrant to the Pacific shores required from four to six months to make the journey from the Missouri river to Sacramento. Now that trip will be made in four days. Only six years have been occupied in constructing that stupendous work, the transcontinental railroad. Almost at the very outset our company had to surmount the Sierra Nevada, clad with almost perpetual snow, commencing to climb the foothills of this lofty range within six miles of the starting point. Their iron and most of their other materials had to be brought around Cape Horn. Yet we have met you nearly in the center of the continent.

"This is a proud day for our youthful state. To her belongs the honor of furnishing the men who had the prescience to comprehend, the courage to undertake, and the energy and perseverance to prosecute the great work to its completion. What the Erie canal was to New York, will this greater undertaking be to the United States at large. The names of Stanford and Judah, of Huntington, Hopkins, and the two Crockers deserve a place in history by the side of Clinton. I am proud also that several of them are from New York, and that Hopkins is a native of our own Jefferson county."

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Many times since the completion of the railroad, and twice, as I have said, before that event, Judge Sawyer visited the eastern states. The first occasion was in 1855, and the second in 1857, when, as he thought, he went home to remain, in company with his newly married wife, Mrs Jennie M. Aldrich, whose acquaintance he made in Nevada city, and whose decease occurred in 1876. Of their three sons Wellbourne, the eldest, was killed by an accident, and the two survivors, Prescott and Houghton, were so named after two of the pioneer settlers of Lancaster, Massachusetts.

Judge Sawyer's last trip to the east was in the spring of 1890, when he was accompanied by Houghton, then only eighteen years of age, but already the inventor and patentee of an improvement in cable roads. Already an expert electrician, it is his intention to follow in that department the profession of an engineer. Nearly half a century before, the judge had been a resident of Chicago, and visiting that city in May 1890, was entertained at dinner by members of the bar association, among them his former pupil, Judge James B. Bradwell. By him a letter was addressed to Judge Sawyer some few months before, inquiring whether he had not at an exhibition in early days, acted the part of judge in the comedy of the "Hoosier Court." From Sawyer's answer as published in the Chicago *Legal News* I extract the following:

"I was a tutor at Wilson's academy during the spring of 1847, and at the close of the term had the honor of presiding over the 'Hoosier Court,' to which you refer. At that time I had not the remotest idea that I should ever preside over any other judicial tribunal; yet it has fallen to my lot to preside as judge over judicial tribunals, state or national, for twenty-eight years—twenty of them as United States circuit judge for the 9th circuit. Heretofore I have had four very large districts in

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my circuit, requiring over 6,000 miles of travel each year to hold all my terms. Now the new states of Montana and Washington have been annexed, and if Idaho should be admitted, as is probable next winter, it will also be attached to my circuit. My jurisdiction is therefore considerably larger than it was when judge of the 'Hoosier Court.' Indeed I believe I have the largest territorial jurisdiction of any court in the world. I have jurisdiction of all offences committed anywhere in the world on the high seas, as well as appellate jurisdiction in cases in admiralty arising on the high seas. As circuit judge for the district of Oregon, I have appellate jurisdiction from Alaska, including the Behring sea. As circuit judge for the district of California, I have final appellate jurisdiction from the judgments and decrees of the consular and ministerial courts of China and Japan, and often have appeals from those courts. Also final and appellate jurisdiction from the consular and ministerial courts of all northern Africa, including Egypt and the Barbary states, and from the same courts in the empires of Turkey and Persia. Quite a change since the days of the 'Hoosier Court.'"

If when duty required it, in his official capacity, Judge Sawyer was stern and inflexible, in private life he was the very embodiment of kindliness and simplicity. One of the oldest and most respected members of the judiciary, he was none the less respected among the chosen circle of his intimate friends. While in that circle the dignity of office was laid aside, and in its place was a gentleness and affection that won the hearts of all who knew him, and called forth esteem that ripened almost into reverence. Too often is it the case that the majesty of public station fades amid the intimacies of family life; but not so in his, for here were no vices or weaknesses to be glossed over or concealed. Pure as was his admin-

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istration was also his private life, simple and abstemious his habits, and there are none of whom it can more truly be said that he kept himself unspotted from the world.

After a week's illness Judge Sawyer died, in San Francisco, on the 7th of September, 1891.

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CHAPTER III.

GOVERNMENT—CENTRAL AMERICA AND MEXICO.

ABORIGINAL RULE—DISCOVERY OF TIERRA FIRME—THE MAYAS AND THE NAHUAS—CONQUEST OF DARIEN—CONQUEST OF MEXICO—VICEREGAL EPOCH—REVOLUTIONARY EPOCH—JUDICIAL AND MILITARY—MODERN EPOCH.

IN attempting to trace the origin of government in Central America and New Spain we encounter numerous myths and contradictions. There seems to have been an empire at Tulan, Tollan, or Tulha, of whose greatness no record exists, and that empire was rent asunder, though how and when does not appear in the annals of the Quichés, who later became so powerful in Guatemala. Its inhabitants migrated in three great divisions, one toward the mountains of Guatemala, another toward Mexico, and the third toward the east, by way of Tepeu and Oliman, which, according to a Cakchiquel record, was on the boundary of Peten and Yucatan. Quiché traditions have it, first, that in ancient times there was, somewhere in Central America, a kingdom, named Xibalba by its enemies; second, that a rival neighboring power grew in strength; third, that a long struggle, of several generations at least, resulted in the overthrow of the Xibalban kingdom; fourth, a subsequent scattering—the cause of which is not stated, though evidently civil or foreign war—of the formerly powerful nations from Tulan or Tollan, their chief city or province; fifth, the identification of a part of the migratory chiefs with the founders of the Quiché-Cakchiquel-Zutugil nations, which were in possession of Guatemala when the Spaniards came

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there. Tribal and other traditions seem to indicate that Xibalba was the empire of the Serpents, founded by Votan and his followers, the same name being applied to its principal city, Nachan, probably identical with Palenque. Tollan, the centre of nations which were successively subjects, allies, rivals, and conquerors of the imperial city, may be conjectured to have been Ococingo or Copan. The people who defeated the Xibalban leaders are supposed to have been the Trequiles, who, according to tradition, captured Tollan in Votan's absence, imparted to his followers, to whom the name of Chanes is applied, new ideas on religion and government, and afterward became a powerful nation, with Tollan as their capital.

One of the migratory bands found in Mexico a great people, probably the Nahuas, who were the only nation that achieved greatness in Mexico in historic times. There are other traditions tending to confirm this theory, which are also corroborated by those of the Nahuas themselves.

Tollan, prior to the Toltec invasion, was occupied by several nations, one of which was the Olmecs, the earliest of the Nahua powers, during whose dynasty Quetzalcoatl appeared. He is represented as a white-bearded man, venerable, just, and holy, who taught by precept and example principles much resembling those of Christ. But they were not generally accepted, and he left them disheartened.

The Toltecs arrived in Anáhuac either in the sixth century or toward the end of the seventh, and between 710 and 720 placed themselves under a Chichimec prince from Amaquemecán, named Chalchiul Tlatonac. The Toltec empire grew and flourished under a succession of kings, who ruled wisely. But in the reign of Tecpancaltzin and his bastard son Acxitl state affairs fell into the hands of unscrupulous men. Vice prevailed to such an extent that even princesses of the royal family were corrupt, and priestesses forgot their vows of chastity. Wars were carried on

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against their neighbors; discontent became general, and civil disturbances ensued, together with invasions of territory. Famine and pestilence followed; the empire was sundered, and Acxitl disappeared. This occurred in the first half of the tenth century. Many Toltecs found refuge in Oajaca, and others went to Yucatan and Guatemala; but most of the people remained, some of them maintaining a distinct nationality in Culhuacan, and perhaps in Cholula.

The Chichimecs in large numbers under Prince Xolotl, a son of their late King Tlamacatzin, and brother of the then reigning soveign, Acauhtzin, invaded the Toltec empire, and took possession of Tollan, the capital. Xolotl's rule was a prosperous one, and his successor was Amacui, who adopted the name of Xolotl II., and the title of Huey Tlatoani Chichimecatl Tecuhtli, or great lord and king of the Chichimecs. In course of time this nation was divided into tribes known by the names of their localities, as the Xochimilcas, Chalcas, Tepanecs, Acolhuas, Tlahuicas, Tlaxcaltecs, and Aztecs or Mexicans, to whom some writers add the Tarascos, Matlalzincas, Cuitlahuacs, Mixquicas, add Cohuixcas. Several of these communities became important sovereignties, while others succumbed to their more powerful neighbors and became mere tributary provinces. In 1211 Tlotzin Pochotl was emperor, with his court at Tenayocan, and his son Quinantzin, being lord of Tezcuco, endeavored to revive Toltec culture. Acolhua II. reigned over the Tepanecs at Azcapuzalco. Culhuacan was governed by kings, the last being Coxcoxtli, who ruled about the end of the 13th century. The Teo-Chichimecs at Poyauhtlan, near Tezcuco, were the cause of much uneasiness to neighboring nations. The Aztecs held a strong position at Chapultepec; but after a struggle, single-handed, with the Tepanecs in 1240, their chief Huitzilihuitl was compelled to submit and to pay tribute.

Tlotzin died in 1246, and was succeeded by Qui-

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nantzin, who still held court at Tezcuco, which was then a flourishing city, advanced in culture. With his own dominions, and conquered Huexotla and Coatlichan, he formed the kingdom of Acolhuacan. A great revolution caused his throne to totter for a time, but he regained his power, and became the mightiest ruler Anáhuac had ever known. Meantime the Aztecs or Mexicans had gained in power. They were few in numbers, but by their skill as warriors and their ferocity had come to be regarded as the pests of the valley. Erelong they were assailed by others, and driven to Acoculco, amid the reeds of the lake; their chief Huitzilihuitl and many others being carried captives to Culhuacan. The records of the Culhuas and Mexicans at this period—early in the 13th century—down to the founding of Tenochtitlan in 1325, are somewhat confused. The latter, after dwelling for some time in Culhuacan, because of their bloody rites and turbulent disposition, were driven out of the city, and wandered several years about the lake before settling where the city of Mexico was afterward built.

Without entering into details of the history of this period, I shall only remark that while the different kings owed a nominal allegiance to the emperor, they paid no tribute, and each one ruled his people with almost absolute sway. During the early days of the Mexican monopoly, the emperor was elected by the vote of the whole people, guided by their leaders. Even the women seemed to have a voice in the election. Afterward, that duty devolved on four or five of the chief men of the empire; the kings of Tezcuco and Tlacopan being also electors, but with only honorary rank. The choice was restricted to the reigning family. In its first stages the monarchy was rather aristocratic than absolute. The emperor was expected to consult with his council, composed of exalted personages; but in his last days his will prevailed over all, and even the authority of the courts

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had been reduced to a dead letter. In Tezcuco and Tlacopan the direct line of succession obtained.

Before the middle of the century the Mexicans were divided into two nations. Tenochtitlan was the capital of the Mexicans proper, whose number had been increased by an influx of Culhuas, and the remainder were called Tlatelulcas, with their capital at Tlatelulco, the population of which had also been largely augmented. In 1350 Acamapichtli II. became the first king of Tenochtitlan, or Mexico.

On the death of Quinantzin in 1357, the throne was occupied by his eldest son, Ixtlilxochitl, who was overcome by the armies of the Tepanec king, Tezozomoc, led by his son Maxtla, whereupon the former was proclaimed emperor. This period in the history of Anáhuac was one of incessant warfare, the incidents of which it is unnecessary to mention in detail. Among the most interesting episodes are the labors and sufferings of the enlightened prince, Nezahualcóyotl, to recover the throne of Acolhuacan at his father's death. Maxtla, who had now assumed the imperial crown, had treacherously caused the murder of Chimalpopoca and Tlacateotzin, kings of Mexico and Tlatelulco, and had also plotted against the life of Nezahualcóyotl. About the year 1428 the allied Acolhúa, Tlascaltec, Cholultec, Mexican, and Tlatelulcan forces, under Nezahualcóyotl, Itzcoatl, king of Mexico, Montezuma, and other leaders, aided by the lord of Tlacopan, succeeded after a campaign of over one hundred days in defeating Maxtla's army, and capturing Azcapuzalco, the Tepanec capital, which was plundered and burned. This city never regained its former rank, and was noted in later times as a slave mart.

In 1431, before Nezahualcóyotl had recovered the capital of his kingdom, the Chichimec period comes to an end, Anáhuac being divided between the victors, and the empire reëstablished on a new basis. This was brought about by the restoration, with slight

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modifications, of the ancient Toltec confederacy of three kingdoms, independent as to their internal affairs, but allied in foreign policy, and in all matters affecting the general interests of the empire, none of the kings being allowed to take action without the consent of their colleagues. The three kingdoms thus formed were, Acolhúa, with its capital at Tezcuco, under Nezahualcóyotl, with the title of Chichimecatl Tecuhtli; the Aztec, with Mexico-Tenochtitlan for its capital, under Itzcoatl, bearing the title of Culhua Tecuhtli; and the Tepanec, with its capital at Tlacopan, under Totoquihuatzin, grandson of Tezozomoc, with the title of Tepaneca Tecuhtli. Mexico and Tezcuco seem to have been in all respects equal in power, while Tlacopan was far inferior to either. Nezahualcóyotl nominally took precedence in rank, but had no authority over his colleagues, and, indeed, as to military power, was probably somewhat inferior to the king of Mexico. Provinces conquered by the allied forces, together with all spoils of war, were to be divided equally between Mexico and Tezcuco, after deducting one fifth for Tlacopan. Under this arrangement, wars of conquest were from time to time undertaken, powerful tribes subjugated, and the Aztec power spread far and wide, from Anáhuac as a centre, until it came in contact with a greater power beyond the ocean.

In course of time the king of Mexico came to be the acknowledged head of the triumvirate, and a mighty potentate, whose will was law, none daring to oppose him, except the lords of Tlaxcatlan or Tlascala, and the monarch of Tarasco. This final preponderance of Mexico over Tezcuco resulted from the prowess in war and wisdom in council of Itzcoatl's successors, notably Montezuma I. and Axayacatl. The former carried his conquests to the Pacific ocean, and humbled the Tlatelulcas, though they were still allowed to retain their sovereignty. Axayacatl, who succeeded him in 1469, reduced Tlatelulco to a tributary prov-

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ince, and extended his empire to the region of the Matlalzincas. In a personal encounter with a renowned Otomí chieftain, he was severely wounded, his death occurring in 1481. During his reign Anáhuac lost her most distinguished man, Nezahualcóyotl, king of Tezcuco, considered the greatest and wisest of all the Chichimec kings. His chief glory rested, not so much on his valor and generalship, as upon his wisdom and justice as a ruler, his learning, and his advanced religious ideas, which were opposed to human sacrifice.

Tlascala, nominally a republic, was ruled by four great lords and by a senate, her independence being maintained by the patriotism and valor of her people, though reduced to the last extremity. Afterward, in conjunction with the Spaniards and Cholulans, she rendered efficient aid in the destruction of her relentless foes, the allied monarchs.

The Tarasco kingdom of Michoacan was ruled by a despotic sovereign, and invariably defeated every attempt of the Aztec alliance to bring it under subjection.

The despotism which prevailed throughout Anáhuac, rendered still more unbearable by the heavy imposts on conquered foes, and the displeasure of the guild of merchants who had been deprived of their former rank, had now created general discontent. Many provinces were eager to shake off the hated yoke; the imperial grasp was weakened, and the triple alliance existed only in name, Mexico having reduced her associate powers to mere satrapies, though still retaining the name of kingdoms. Such was the condition of the Aztec empire in 1518, when Montezuma II. wielded the imperial sceptre. By his success in war and diplomacy he had raised himself to the highest pinnacle of greatness ever attained by a Nahua monarch, being styled by his subjects the Emperor of the World, while as high priest of Huitzilopochtli, the Aztec god of war, his gravity and circumspection

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had won the favor of the community. On the other hand, his extravagance knew no bounds, and the enormous expenses of his household, together with the cost of his incessant campaigns, were felt by his people as burdens grievous to be borne.

Rodrigo de Bastidas sailed along the South and Central American coasts in 1501. Columbus discovered the Atlantic coasts of Honduras, Nicaragua, Costa Rica, and the isthmus of Panamá in 1502. Santa Maria de la Antigua del Darien was settled in 1510. The expeditions inland in search of gold led to the discovery by Vasco Nuñez de Balboa of the Pacific ocean, of which, together with all the continents and islands thereon, he took formal possession for the Spanish crown in 1573. Balboa was a gentleman by birth, born in Estremadura in 1475. While a resident of Española, being beset by creditors, he escaped in a closed cask, out of which he emerged while at sea, on board a vessel bound for the Isthmus, where he soon made his superior qualifications known, and was placed in authority; but owing to intrigues at court he was displaced. Later, upon the organization of the government of Castilla del Oro, he was given the command of the southern region, subordinate to Governor Pedrarias Dávila. The latter, from motives of jealousy, brought forward a charge of treason and insubordination against him, whereupon he was beheaded at Darien in 1517. Balboa was the hero of the conquest of the Isthmus, and there were few Spaniards who did not regard with admiration his daring intrepidity, chivalrous bearing, and his affable, generous disposition. With very different emotions did they look upon the conduct of Pedrarias, who, throughout his long career in America, proved himself a cruel and treacherous ruler, one versed in all the arts of villainy, and whose inborn depravity of heart was illumined by no gleam of a better nature.

The seat of government was transferred to Panamá

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in 1518. The Isthmus was in after years under different forms of authority, until finally divided into provinces, and attached to the viceroyalty of Nueva Granada in 1821, declaring its independence, and joining its fortunes with the republic of Colombia, to which it still belongs. The raids on the Isthmus by pirates, and its importance as the commercial highway of the nations, are treated of at length in my *History of Central America.*

Let us now speak for a moment of the Mayas. There were in Guatemala, at the coming of the Spanish conquerors, three kingdoms, which were of the same origin, and probably sprung from the numerous petty sovereignties into which the empires founded by Votan and his successors in Chiapas, Guatemala, and Yucatan had been divided. There had been another empire, founded by Zamná at Mayapan, over which ruled after him, first the Cocomes, and next the Tutul Xius. Mayapan was plundered several times, and finally destroyed in the 15th century by the vassal lords, who revolted, overthrew the Tutul Xiu dynasty, and divided the country into petty sovereignties, in which condition the Spaniards found it.

The three kingdoms above alluded to as existing in Guatemala were that of the Quichés, whose capital was Utatlan or Gumareaah, near the site of the present Santa Cruz del Quiché; that of the Cakchiquels, with the capital called Iximché or Patinamit, near Tecpan Guatemala, these two nations forming one empire until about a century before the advent of the European conquerors. The third kingdom was that of the Zutugils, who ruled at Atitlan, and had shortly before formed a part of the Cakchiquel sovereignty. It is hardly necessary to say that great rivalry existed between the three kingdoms, though to the Quichés was conceded the preëminence in culture and political standing.

The three governments were apparently identical

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in form. They were aristocratic monarchies, wherein all high positions, judicial, military, or sacerdotal, were hereditary and restricted to noble families. Between noble and plebeian the line was sharply drawn. It is presumed that the crown descended from brother to brother, and from the youngest brother to the nephew who was the son of the oldest brother. The machinery of government in the provinces was carried on by the king's lieutenants, and the king had a council of nobles to consult with on state affairs. Besides the above divisions there were several independent sovereignties ready at all times to side with the power from which they might expect to reap advantage.

The existence of the Aztec empire first became known to the Spaniards in 1517. Diego de Velazquez, governor of Cuba under appointment of Diego Columbus at Española, despatched in that year an expedition of discovery under Francisco Hernandez de Córdoba, who in March discovered Yucatan. He had severe encounters with the natives, lost many of his party and received himself severe wounds, of which he died soon after his return to Cuba. A second expedition under Juan de Grijalva, discovered the island of Cozumel, and the coasts of Campeche, Tabasco, and Ulúa, the present Vera Cruz. Grijalva held friendly intercourse with the inhabitants, from whom he obtained much information as well as a quantity of gold. Grijalva was noted as an honest man, chivalrous, courteous, and brave; but complying too strictly with the orders of Velazquez, failed to make any settlements in the lands which he visited. Hence he was slighted on his return to Cuba, and it is moreover probable that his subordinate, Pedro de Alvarado, whom he had once reprimanded for disobedience, poisoned the governor's mind against him.

The glowing accounts anent the newly discovered regions, and especially of the coast of Ulúa, filled

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Velasquez' soul with ambition to secure them for the Spanish crown, and visions of glory and wealth unlimited floated before his mind. A third expedition was forthwith set on foot, and Hernan Cortés, the popular alcalde of Santiago de Cuba, and the governor's compadre, was invited to aid in fitting it out, with the promise of the chief command. Cortés was then in the prime of life, being thirty-three years of age, well built, and possessed of the physical and intellectual powers needed for a difficult and hazardous undertaking. Of his courage no doubt was entertained, and his subsequent career proved that his qualifications for command, however high the estimate made of them, fell far short of the reality. He was of gentle birth, a native of Medellin in Estremadura, Spain, possessed of wit and vivacity, astute, discreet, endowed with intuitive knowledge of men, and ability to mould them to his will. He would not seek danger for danger's sake, but his resources in extricating himself from difficulties seemed almost unlimited. He would incur great risks for great purposes, and obstacles were then swept aside like chaff. He was ambitious of great deeds, and considered it right to do whatever his strength permitted; in other words, principle counted for nothing, albeit he called himself a faithful and devoted servant of that church which was a representative of Christ. With good manners and fair education, why should he not rise from poverty and comparative obscurity to wealth and power? He accordingly accepted Velazquez' offer, and embarked his own means and those of his friends in the enterprise. But Velazquez' mind became uneasy; he began to distrust Cortés, and the latter seeing ruin before him if he was displaced, gave the governor the slip, and on the 18th of February, 1519, set sail with his expedition for the coast of Mexico. Though it does not appear that Velazquez was even recompensed either by Cortés or the crown for his violated rights or expenditures, yet he had little sympathy, popular

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feeling going with the dashing rascal, Cortés. The conqueror of Mexico was accompanied by men who won for themselves almost as great renown as had been awarded to their chief, as warriors and conquerors; Pedro de Alvarado, Francisco Montejo, Cristóbal de Olid, Gonzalo de Sandoval, Velazquez de Leon, Diego de Ordaz, Morla, and others.

The expedition reached Yucatan, where there was an encounter with the natives, who were chastised for their presumption. Emblems of idolatry were hurled to the ground, and the symbol of christianity was erected in their stead; the Spanish captive, Gerónimo de Aguilar, was rescued, and afterward rendered valuable services. The people of Tabasco, though friendly to Grijalva, were now hostile, and were brought under subjection, their country being formally taken possession of in the name of the Castilian crown. This being accomplished, the fleet proceeded up the coast, and anchored off San Juan de Ulúa late on Thursday in passion week.

For some time preceding the arrival of the Europeans, a series of calamities, and occurrences considered as of bad omen, took place in Anáhuac, filling the minds of rulers and people with awe and fear. Their astrologers and soothsayers, as well as their most trusted counsellors, had not been able to account satisfactorily for the latter. For several generations the coming of Quetzalcoatl himself, or of his brethren from the east, had been expected. They were supposed to be white, bearded men, dressed in raiments of different color, and with caskets on their heads. Then the idols would perish, leaving but one god, and the accompanying boon of the cessation of all warfare. Many of the prodigies above referred to were received by Montezuma and his people as the distinct announcement of the coming of the gods. The coincidence of the visit of Grijalva's expedition worked upon native imagination, leading it to look upon those strangers as the promised deities. Montezuma, on being advised

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of that visit, was filled with terror. The people received the tidings with mingled fear and joy. Marvel-mongers talked of Quetzalcoatl and his pedigree, of the signs and wonders which had been witnessed, the prodigies, oracles, and occult divinations. It is quite possible that the Spanish chroniclers drew many of those marvels from their own imagination.

The emperor, after consultation with his colleagues and counsellors, concluded that Grijalva was none other than the fair-hued Quetzalcoatl who had come to resume his throne, as he had promised at the time of his departure; that resistance would be in vain, and the only proper course would be to tender him a friendly reception, and to conciliate him with gifts. Orders were issued to the court officials to report forthwith any arrival or strange occurrence, and an embassy was despatched to bid the god welcome in the name of the emperor and his court, yet he was to be closely watched. The embassy arrived at the port after Grijalva had departed.

While the fleet of Cortés was lying at anchor, it had been watched from the shore by eager eyes. Presently two canoes appeared, whose occupants stepped on the deck of the flag-ship, and respectfully asked for the Tlatoani. Their language was unknown to the rescued Spaniard, Aguilar. But from among the female slaves captured in Tabasco stepped one, who modestly said: "These are Mexicans, sent by the ruler of the nearest town to welcome the white chief, and tender his respects. He would also know whence he comes and why." This interpreter, named Marina, had been baptized in Tabasco, and being the greatest female personage there, had been given to Puerto-Carrero, the foremost Spaniard present. Cortés now fixed his attention on her, and appreciated at once the service she had rendered him, and how useful she would be in the future. She was fair for an Indian, a fascinating type of beauty, in form and feature perfect, and eighteen years of age, sweet and frank in

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disposition, though resolute, and with superior intellectuality. A daughter of a cacique, born eight leagues from Goazacoalco, she had been sold after her father's death to Xicalanco merchants, who resold her to a cacique of Tabasco, by whom she was transferred to the Spaniards. She afterward had by Cortés a son, who in later years was knighted, and known as Don Martin Cortés. She finally married Captain Jaramillo, to whom she bore several children. Marina was Cortés' interpreter and trusted agent throughout his campaigns until after the fall of Mexico.

It is a sad story of villainy on one side and affrighted superstition on the other, the negotiations between Montezuma and Cortés. The latter listened to no objections and heeded no overtures or blandishments, to deter him from carrying out his great aim, the conquest of that vast country with all its treasures. He soon became informed of the reigning discontent, and carried out his schemes, using the Totonacs, defeating the Tlaxcaltecs, and afterward accepting them as allies, and faithful auxiliaries they were. He called at Cholula on his march to the capital, and whilst there one of the most disgraceful incidents of the conquest occurred, casting a black pall of infamy forever over the gallant conqueror. Upon information reaching him, through Marina, that the Cholultecs were planning the destruction of the Spaniards, Cortés summoned the chiefs and nobles into his quarters, and mercilessly butchered them, afterward giving over the city to pillage.

As Cortés approached Mexico, Cacama, King of Tezcuco, visited him, and endeavored to dissuade him from going to the capital; but his efforts were futile. Cacama's own throne was not safe, his brother Ixtlilxochitl, who had taken away a portion of his dominions, wanted the rest, and sought Cortés' aid. But the latter made promises which were not binding, and if they had been he would unscrupulously have evaded them unless they served his purpose.

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Montezuma, as Cortés was entering the capital, came out with a splendid array of his lords to receive him. After an apparently cordial interview, the emperor returned to his palace, and the strangers and their allies were quartered in Axayacatl's buildings. Next day Cortés, with some of his officers, visited the emperor, who then made known to them his belief that they were the men whose arrival had been predicted; as a consequence he acknowledged himself to be the lieutenant of their great king, to whom he would give of what he possessed.

From day to day Cortés matured his plans, honoring Montezuma at times, at others subjecting him to indignities, even to having shackles clasped round his ankles, and finally transferred him to the Spanish quarters. Cacama rebelled and was deposed by Montezuma on Cortés' demand. Ere long the puppet that superseded Cacama and the King of Tlacopan, together with many high lords, were in Spanish clutches. Cortés now required that Montezuma and his subjects should formally give their allegiance to the Spanish crown, which demand was acceded to without demur.

Meantime a powerful expedition arrived from Cuba under Pánfilo de Narvaez, to bring Cortés under subjection, but the latter made short work of it, capturing Narváez, together with his army and supplies, by surprise one night at Cempoala. Thus was Cortés reënforced and supplied with abundance of war material without expense to himself. During his absence from Mexico, Pedro de Alvarado, who had been left in command, under the pretext that the Aztec nobles were plotting the destruction of the Spanish garrison, went into the great temple when thronged with the highest nobles and the gentry of the land, massacred them, and after this dastardly deed robbed even the dead bodies. The Spaniards were assailed by a mob, but were fortunate in reaching their fortified quarters in safety; but not without Alvarado being seriously wounded, and one Spaniard and several allies being

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slain. Pedro de Alvarado, whom the Mexicans called Tonatiuh, or the Sun, was of the age of Cortés, a native of Badajoz, and the son of a knight commander of the order of Santiago, whose red cross of the order he wore in his days of poverty at Española, though without a tittle of right, ever after calling himself the comendador Alvarado. He was an encomendero in Cuba when he went in Grijalva's expedition. Alvarado was troubled with neither moral principles, nor feelings of humanity. He had an agile frame, a pleasing countenance, and a rather ruddy complexion; was a boon companion, fond of pleasure and of money as a means of purchasing enjoyment. An excellent horseman, and brave almost to recklessness, he must be acknowledged to have been a gallant soldier. By a Tlaxcaltec woman he had several daughters, who married into noble Spanish families. After conquering Guatemala he maaried a titled woman in Spain. His death took place years after in an encounter with Indians in Mexico. His wife and several members of his household perished in the great rush of waters from the Volcan de Agua of Guatemala.

The Aztecs had risen in their wrath, and Montezuma, though now without influence among his people, checked them for the time. Cortés returned to the capital with his forces, and hoping to quiet the excited populace, prevailed on the emperor to appear before them as a mediator. While speaking, a stone hurled at him, struck his head, and soon afterward he died, yet more from grief than from the blow, on the 30th of June, 1520. His almost unbounded kindness and generosity to his white guests had been requited with black ingratitude, and cruel indignities throughout. Thus it has ever been with religious wars and christian conquest; none have been more unjust, none more utterly diabolical and villainous. Montezuma had several daughters, and a son from whom many of the first families of Spain trace their descent.

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And now followed stirring events. The Spaniards found themselves so hard pressed that they were compelled to abandon the city. Gonzalo de Sandoval was appointed to lead the van. He was a young officer, some twenty-two years of age, but a thorough soldier, combining valor with discretion and humanity, modest in demeanor, and pure of heart. Cortés said of him that he was one of the foremost cavaliers in the world, fitted to take command of armies. The events of the Noche Triste, or sorrowful night, form one of the most remarkable episodes in history. Only after the most heroic deeds of valor, and the loss of a large proportion of their number, did the shattered remnant of the Spaniards and their allies reach Tlacopan.

Prostrated by the blow, at Popotla Cortés seated himself upon a stone, and wept over the catastrophe. From the cavalry were missing the dashing Lares, the intrepid Morla, and the brave Velazquez, a relative of the governor of Cuba; but Sandoval, Alvarado, and Olid, and the ship-builder, Martin Lopez, had escaped with life. The interpreters, among them the loving Marina, had also survived. The Spaniards returned to Tlaxcala, where they were received with the warmest friendship. The Mexicans committed the great mistake of allowing the Spaniards a respite, and meanwhile made overtures to Tlaxcala, but the latter remained faithful to the Spaniards. In due time she felt the effects of a conqueror's ingratitude. The Spanish character is naturally treacherous; the Indian character is not altogether free from treachery; hence there is little wonder that we find the Mexican character of to-day not wholly reliable.

Cuitlahuatzin had succeeded Montezuma, and was the hero who drove the Spaniards from the city, and inflicted on them such terrible chastisement. But he lived only a few weeks, falling a victim, as did Totaquihuatzin of Tlacopan, to small-pox, which had been brought into the country by Narvaez' men. Mexico

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lost in him the most promising of her sovereigns. He was succeeded by the high priest Quauhtemotzin, who continued the struggle to the end.

Cortés reunited his forces, and refitted at Tlaxcala, building a fleet of brigantines, which he manned, and armed with cannon. With them he bombarded the capital, and destroyed the greater portion of it, compelling the starved inhabitants to surrender, after King Quauhtemotzin had been taken prisoner, while trying to escape. This was practically the completion of the conquest, August 14, 1521. Neighboring monarchs and lords, one after another, tendered their submission. In after years the territories inhabited by wild tribes were conquered by other men, several of whom had been among Cortés' companions in arms. It was now but a question of time, patience, valor, and endurance.

Soon after the capture of the capital expeditions were dispatched in all directions in search of mines, and to explore the country. Cortés sent Cristóbal de Olid to take possession of Las Hibueras or Honduras, which was accomplished; but Olid threw off his allegiance to Cortés, who at once sent an expedition by sea against him, and himself set forth overland with a large force. On his journey he found a pretext to hang the kings of Mexico, Tezcuco, and Tlacopan, whom he had taken with him. Upon his arriving in Hibueras he found his authority restored, Olid having been foully murdered. The latter had been one of the heroes of the Mexican campaign, a very Hector in combat. He was, in the main, a good man, and while lacking in sincerity and judgment, was possessed of bravery, resolution, and other qualities, which made of him an excellent executive officer, though one unfit to be a leader. His ambition to command, directed by evil influences, brought about his downfall.

Spanish occupation of Costa Rica and Nicaragua in the sixteenth century was an easy task, and one

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that does not require description. The conquest of Guatemala and the present Salvador was a more difficult one. The country had been visited in 1520 and 1521 by epidemics, which caused terrible havoc, among the victims being the kings of Quiché and Cakchiquel, and the flower of their nobility. Circumstances were favorable for the conquest when Pedro de Alvarado, with his Spaniards, came in 1524 by way of Chiapas. The destruction of the Quiché kingdom was the result of a single battle. The flower of its army was routed and scattered, and its king, Tecum Umam, together with numbers of the first men of the land, had perished. Umam's successor planned to entrap the Spaniards, and was himself entrapped. He and his nobles were made to gather gold for the Spanish conquerors, and when they could collect no more were put to death; their capital was burned, the whole country devastated, and the people taken in arms, branded as slaves. This was in April 1524. In May the Cakchiquel capital was taken without resistance. The fall of the Zutugils followed, and the people became thoroughly subjugated. In Salvador, then known as Cuscatlan, the invaders at first encountered foemen worthy of their steel, but eventually the natives succumbed, and were declared traitors, and enslaved. Conquest, with its attendant oppression and devastation, overspread the whole country, and was followed by the total obliteration, both national and social, of the conquered races.

The capital of Mexico was rebuilt by Cortés, the hapless race being forced to do the work of reconstruction, those who aided the conquerors not being excepted. Cortés was appointed governor and captain-general, and endeavored to protect the natives, but during his absence in Hibueras horrid crimes were perpetrated by those who usurped the authority. He was afterward superseded by an audiencia, with Nuño de Guzman as president, who treated him with contumely. Thus the treacherous conqueror was made

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to taste the treachery of others, and these of still others, villainy succeeding villainy to the end of the chapter, which is, indeed, Mexico's history, with now and then an exception.

Guzman conquered New Galicia, but for his infamous deeds, among which was the murder of the king of Michoacan, was sent as a prisoner to Spain, where he died in poverty. A second audiencia, under Fuenleal, bishop of Santo Domingo, conducted affairs with more regard to justice and decency. At last the crown organized the kingdom of Nueva España, or New Spain, under the rule of a viceroy, the first one being Antonio de Mendoza, who assumed office in October 1535. Mendoza was a man of noble birth, of purity of character, and administrative ability, but found it no easy task to put in order the machinery of government. His relations with Cortés were at first friendly, but soon disagreements arose. Cortés had been engaged in explorations, and claimed the exclusive right to his northern discoveries, whereas Mendoza, who was himself intent on conquest and discovery, threw obstacles in his way. The former had ere this been awarded vast estates, together with the title of Marqués del Valle de Oajaca, to which were annexed almost sovereign powers. He had married in Spain a lady of high rank, and had by her a son, who was to inherit his honors and estates. In 1540 he returned to Spain, to prosecute his claims, but his efforts were futile; his power in New Spain was gone, his prestige lost, and his petitions to the crown were unheeded. Neglected by the monarch for whom he had conquered a new world, Cortés died at Castillejo de la Cuesta on the 2d of December, 1547, in his sixty-second year. The second Marqués del Valle, then a minor, was left to the care of his guardian, the duke of Medina-Sidonia.

The viceregal period which followed presents a few good rulers and many bad ones. During Mendoza's

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reign of fifteen years, provinces were conquered, mines were discovered and developed, towns, churches, convents, hospitals, and schools were established; roads, bridges, and other public works were constructed; and agriculture and other industries were developed. Mendoza's services in New Spain were almost indispensable, but the condition of affairs in Peru, after the suppression of Gonzalo Pizarro's revolt, called for a man of superior executive ability, and Mendoza was selected as the man for the occasion. The second viceroy, Luis de Velasco, also enjoyed a long tenure of office, and ably carried out the measures so efficiently inaugurated by his predecessor.

Soon after Velasco's death, in 1564, during the temporary rule of the audiencia, much discontent was exhibited by the encomenderos because of the new laws enacted by the crown for the liberation of the Indians. The Marqués del Valle, with his wife and brothers, had been for some time living in Mexico, in almost regal state, thus giving umbrage first to Velasco and later to the audiencia. The marquis, his brothers, and the brothers Ávila were accused of treason, and thrown into prison. Martin Cortés, Marina's son by the great conqueror, was subjected to torture, and the brothers Ávila and others beheaded. The marqués was afterward kept a prisoner in Spain during many years, and so heavily mulcted as to be almost reduced to poverty. The tyrannies and cruelties committed by the authorities on this occasion present a picture revolting to human nature.

Nevertheless, the viceroys were at least as well-disposed and efficient as the masters whom they served; some of them, such as Mendoza, the Velascos, father and son, Moya, Bucareli, Revilla-Gigedo, the younger, and a few others being excellent rulers. On the other hand the government of the Marqués de Branciforte, brother-in-law of the famous Godoy, was a true specimen of Spanish villainy. During his rule Mexico was plundered as she had never been

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plundered before. Arriving in 1794 he began to amass money by all and any means, and after spending his term in riot and debauchery, carried away on his departure in 1798 about five millions of dollars, the greater portion of which he claimed as belonging to himself. But whether good or bad, as rulers, the viceroys labored to cement the colonial system, that is, they made the country a servile tributary not only to the crown, but to a monopoly of Spanish merchants and manufacturers. The policy to which they were forced to submit was no less suicidal than contemptible. The Spaniard born in the mother country, would not have the Spaniard born in America, and much less the Indian, know how many elements of wealth his country possessed, nor would he allow other nations to learn the source of America's opulence. The colonies were kept isolated from the entire world, except from Spain, and even to a great extent from one another.

The viceregal period presents but few events worthy of note, as compared with the stirring scenes and struggles presented in the history of European countries. Now and then was an Indian or slave uprising, a riot quickly quelled, and that was all; the shackles of tyranny and religion were well riveted. Discontent came at last, however, so that espionage and intrigue kept the official circle on the alert, always apprehensive of something that might shatter the unstable fabric. Among the creole class was widespread disaffection, caused mainly by the preferences given to frivolous adventures from the mother country. The same selfish policy observed by the Spanish government toward Mexico was displayed in Central America, with this difference, that the latter being poor could not be plundered to the same extent. The five sections were ruled by their respective governors, appointed by the crown, though subordinate to the president and audiencia of Guatemala. In 1860 the constitution of the audiencia was reformed

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The presidents and captain-generals were placed on the same footing as those of Mexico; as governors they were independent of the oidores, while the latter in their judicial functions could not be interfered with by the former. During the period of Spanish domination intellectual and moral stagnation prevailed—while of material development there was but little. The functions and policy of rulers were determined by the crown and the council of the Indies; the duties of subjects were well-defined. The grasp of the mother country became weak toward the end, though the creoles were not aware of it. But troubles beset her at last, of which the Americans availed themselves to shake off the fetters of an irksome dependency.

With the opening of the 19th century begins the revolutionary period of Spain's American colonies. Mexico was in a disturbed condition during the first decade; and though the creoles perhaps helped to fan the flame, the quarrel was at first between the Spaniards, from old Spain, and their rulers. The troubles were caused originally by the mother country, at that time invaded by the armies of Napoleon, who had placed his brother Joseph on the Spanish throne.

The hatred felt by the natives toward the Spaniards was now as marked as on the day that Cortés seized their capital. The feeling which prompted a conspiracy in Valladolid soon spread throughout the country, and in Querétaro it found an echo. The corregidor Dominguez, who had been ill-treated by the viceroy, manifested his resentment, and he soon found that he had many sympathizers. A revolutionary plan was adopted, which met with the support of the army captains Allende, Aldama, and Arias, the licentiates Laso and Altamirano, and the rector of the town of Dolores, Miguel Hidalgo y Costilla. Circumstances made the last named the leader of the

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ever-memorable revolution of 1810. Hidalgo was a man of high attainments, sagacious, as well as patriotic. After assuming the pastorship of Dolores in Guanajuato, he turned his attention, at spare moments, to agriculture, particularly the cultivation of the vine, and to industrial pursuits, which were beneficial to his Indian parishioners, devoting himself also to the study of philosophy and science. He was kind-hearted and generous, and at the same time brave and resolute, while his courtesy and affability won for him friends wherever he was known. His Indian flock had learned to look on him as a father and protector. Allende and Aldama were captains of acknowledged ability and courage, and possessing, moreover, no slight influence among the community.

Their plan having been betrayed to the authorities, Allende hastened to Dolores and made known the treachery to Hidalgo. This was on the night of September 15th. The curate at once summoned his parishioners, and told them that the time had arrived to strike a blow for their rights and liberties, and that he would be their leader. His words were received with shouts of "Viva Nuestra Señora de Guadalupe! Muera el mal gobierno! Mueran los gachupines!" Forthwith the European Spaniards residing in the town and its vicinity were made prisoners, and all the weapons were secured. This was the Grito de Dolores, the cry which inaugurated the long struggle culminating in the complete overthrow of Spanish domination in Mexico. After a few victories, accompanied with brutal excesses, the patriots under Hidalgo's immediate command, received a crushing blow on the 16th of January, 1811, at the hands of the royalist commander, General Calleja, on the bridge of Calderon, near Guadalajara. Hidalgo was then deprived of the command by Allende and his colleagues, and kept under surveillance, without even being consulted as to further action. But it was soon found that the patriot army could not hold together, and

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the leaders must seek safety in flight. Hidalgo, Allende, and others, set forth for the United States frontier, but were arrested in Coahuila by a lieutenant-colonel called Elizondo, who turned traitor to the cause he had been serving. The prisoners were tried some months later at Chihuahua, condemned to death and shot. Whatever Hidalgo's errors may have been as a military leader, to him is due the credit of having given the first impulse toward independence; for which he has been awarded the well-earned title of father of his country.

For the sake of union Ignacio Rayon, one of Mexico's noblest patriots, organized a council of government at Zitácuaro, which, in the hope of gaining influence, recognized King Fernando VII. of Spain as sovereign of Mexico, though declaring a separation from the mother-country. Meantime, José Maria Morelos, also a curate, and a former pupil of Hidalgo, had been carrying on a series of effective operations in Michoacan. Morelos was about forty-five years old at the outbreak of the revolution, and compared with his former master, might have been called illiterate; but he possessed sufficient education to meet the requirements of his position. He was no dreamer, but more of a man of the world than Hidalgo, firmness and energy being prominent traits in his character. His voice in battle was like the roar of thunder, and he thought no more of danger in action than when reciting prayers in a cloister. Together with great military ability, he possessed marvellous instinct and foresight, united with sound common sense, which won him renown, not only as the greatest military commander of his time, but as a political leader. No personal motive influenced him in his valiant struggle for liberty, and he preferred to all honors the title of "servant of the nation." He has been accused of cruelty, but it does not appear that he even inflicted severe punishment except by way of necessary example. Such was the man who now assumed leadership

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of what has been called the second revolution. Supported by Matamoros and the Bravos, he entered the valley of Mexico early in 1812, passing near the capital. He fortified Cuauhtla, and was besieged by the royalist, Calleja; but he repulsed every assault during several months, until compelled by hunger to make his escape. Later he captured Oajaca and Acapulco, the latter after a long siege, which has been imputed to him as a serious blunder. Military operations progressed; but meantime, in Morelos' absence at Acapulco, the royalist recuperated, and had time to arrange the plan of a campaign. A formal declaration of independence was made by a congress at Chilpancingo, and Morelos was named generalissimo. Owing to an unfortunate misunderstanding on the part of some of the revolutionary chiefs he was left unsupported in Michoacan, and was, in consequence, routed by Llano and Iturbide. From this time disasters followed in quick succession. Matamoros and Miguel Bravo were captured and shot, and the same fate befell Morelos near Tesmalaca as he was covering the retreat of the congress. One month later, on the 22d of December, 1815, was executed this most able commander and unflinching patriot, and with him disappeared the hopes of the revolutionists.

The dissolution of congress by the patriot chief, Terán, only served to bring on a greater disunion, and all military operations became reduced to the insignificant efforts by guerrilla parties scattered through a vast extent of country, and commanded by Terán in Tehuacan, Guerrero in the region now bearing his name, Rayon and Bravo in Michoacan, Torres in Guanajuato, and Victoria in Vera Cruz. Still another effort was made by a young Navarrese chieftain, named Espoz y Mina, who brought with him a number of volunteers from the United States. He was at first successful, but was finally surprised, captured, and shot. Mina was as generous as he was brave and efficient as a leader. Finally all the insurgent strong-

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holds were taken, and in a short time these chieftains either surrendered or were killed, with the exception of Victoria, who concealed himself in the woods, and Vicente Guerrero, who maintained with a small party in the mountains of Guerrero the struggle for independence. Finally, Agustin Iturbide, a native of Michoacan, and a colonel in the royalist army, who had been one of the most efficient officers in the war against the insurgents, and, indeed, their most cruel foe, accepted an invitation to head a revolution from the Spaniards and upper clergy, who were displeased with the action of the córtes in curtailing their privileges and establishing liberal laws. Iturbide deceived Viceroy Apodaca, who gave him the command of a force to escort a large treasure to the coast, and commissioned him to march against the insurgents in arms. Thereupon, throwing off the mask, he seized the treasure, agreed with Guerrero to proclaim independence, and finally issued a pronunciamiento at Iguala on the 24th of February, 1821, with the support of his army, which assumed the name of Ejército Trigarante, as defenders of the three guaranties, alluding to the three cardinal principles of the plan. These were the support of the Roman catholic religion, to the exclusion of every other form of worship, with preservation of all the privileges of the clergy; the independence of Mexico under a limited monarchy; and intimate alliance between Europeans and Americans, with equal rights for citizens and public employés, whether born in Europe or Mexico. This plan was supported by all the royalist officers, and afterward accepted by Viceroy Juan O'Donojú, who arrived in July of the same year. It was agreed that the crown of the new empire was to be tendered to Fernando VII., or if he declined it, to a Spanish prince of his selection. But the Spanish government refusing to recognize this arrangement, the provisional government of Mexico, of which Iturbide was the head, declared their independence; the populace, on

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the 18th of May, 1822, proclaimed him emperor, and he was crowned under the title of Agustin I. But his reign was short. Mainly through his imperious bearing toward the national congress, a revolution broke out, in February 1823, headed by Antonio Lopez de Santa Anna and others, and about two months later Iturbide abdicated, and was banished from the country. After a brief residence in Italy, he was induced by false representations to return, and secretly landing at Soto la Marina, was captured and shot, on the 19th of July, 1824. His remains were buried at Padilla, whence they were removed by order of congress, and interred with solemn obsequies in the cathedral of Mexico, on the 24th of October, 1838. Though credit has been awarded to Iturbide as the final liberator of Mexico, his name should not be coupled with those of such true patriots as Hidalgo, and Morelos, Guerrero and Victoria, Bravo and Mina.

Mexico was now independent; the Spanish forces were disbanded, or had left the country, though Spaniards held possession of the cattle of San Juan de Ulúa at the port of Vera Cruz, until they were forced to surrender to the Mexican General Barragán in November 1825. Spain made an attempt to retake the country, for which purpose an expedition under Brigadier Barradas landed near Tampico in July 1829; but the invaders were after some fighting forced by Santa Anna and Terán to surrender in September of the same year, on the banks of the Pánuco river.

Central America had, during the Spanish domination, made several efforts in the early years of the present century to shake off the yoke; but they proved futile, and only entailed suffering upon those who engaged in them. But in 1822 independence was proclaimed without bloodshed, the Spanish authorities acquiescing in the movement. When on the point of adopting republican institutions, the sev-

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eral provinces, through intrigue and chicanery on the part of Captain-general Gainza, and the so-called aristocrats, found themselves annexed to the empire of Iturbide, and so remained until by the downfall of that ruler, they again secured their autonomy, and the opportunity of constituting themselves an independent nation. Chiapas, however, which had formerly been a part of the presidency and captain-generalcy of Guatemala, preferred to remain a dependency of Mexico.

In both countries federal republics were organized. The constitution of the Estados Unidos de Méjico was promulgated on the 4th of October, 1824, and that of the Estados Federados de Centro America on the 22d of November of the same year. Prior to such promulgation the two republics had been under the rule of triumvirates. The first constitutional authorities in Mexico were Guadalupe Victoria, president, and Nicolás Bravo, vice-president. Both deserve the highest praise for devotion to their country. Victoria's real name was Juan Félix Fernandez, but during the war of independence he changed it, taking as his first name Guadalupe, in honor of the virgin patroness of Mexico, and as his surname that of Victoria, in commemoration of a victory over the Spaniards. After all his efforts for independence had proved futile, he hid in the mountains, clothed in rags and gaunt with hunger. It was then that he acquired the habit which he retained long afterward, of making only one meal every twenty-four or thirty-six hours. Victoria was an honest, unassuming citizen, amiable, and kind-hearted, of undoubted courage, and a true lover of freedom. Ambition never entered his heart; his abnegation was notorious; his country was his idol; and though he had filled the highest offices, he died poor, and was buried at the public expense. His administration showed lack of firmness, and was marked by failure, but for the latter he cannot be blamed, since it was caused by the party spirit

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which for many years rendered futile the efforts of Mexico's best and ablest patriots to consolidate her liberal inststutions.

Nicolás Bravo was one of the most enthusiastic and efficient officers of the war, and in the years preceding the independence suffered imprisonment as a felon for serving his country. On one occasion he had in his power three hundred prisoners, some of them officers from Spain, others wealthy hacendados. At this time his father was taken prisoner by the royalists and shot in cold blood. Bravo called up his prisoners. He told them what had been done to his father, and then he set them free, saying, "Go, find your vile master, and henceforth serve him, if you can." He was afterward a member of the provisional government, and in later years president of the republic, though on more than one occasion he took part in revolutionary movements.

Thus was Mexico from the first scourged by internecine war. She adopted, moreover, an expensive system of government, raised large loans, and expended money without stint. The consequence was, that before the end of her first president's term, she was heavily in debt, her treasury was exhausted, her credit had disappeared, and her industries were paralyzed.

The second president was the revolutionary hero Vicente Guerrero, a man of the lowly race called *castas*, disqualified by law, custom, and prejudice for political office, and yet by his fortitude and eminent patriotism he won for himself the proudest position in the gift of the republic. His elevation to the presidency had been a triumph of the popular party, and this was not forgiven him by the enemies of democratic institutions. His strict maintenance of federal institutions, when his enemies were bent on his destruction, hastened his downfall, and he was overthrown by an army of conservatives led by General Anastasio Bustamante, who had been a royalist when

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Guerrero was fighting for his country's freedom. He attempted, though unsuccessfully, to recover his authority, being defeated near Texas in August, 1830. The government of Bustamante, among whose ministers were Alaman and Facio, clamored for his death, and paid a large sum to an Italian shipmaster to betray him into their hands. He was taken to Oajaca, charges were preferred against him before a court-martial, and the great patriot who, setting aside his own democratic preferences had coöperated with Iturbide to secure Mexico's independence, was condemned to death, and shot at Chilapa on the 14th of February, 1831; after being compelled to listen on his knees to his death sentence. A singular coincidence was this of Iturbide and Guerrero, two men, who though of opposite political views united to accomplish their country's independence, being publicly executed by order of the same political party. One of Guerrero's memorable acts, while clothed by the national congress with dictatorial powers, during the war of Barradas' invasion in 1829, was his decree abolishing slavery in Mexico.

The constitution of 1824 contained many excellent clauses; but, unfortunately, was not well adapted to a country where the masses were ignorant and superstitious. The clergy, whose privileges were curtailed, and whose revenues were diminished, were of course discontented, and ready for anything that would restore their power. They naturally sympathized with the conservatives. The army was demoralized, the majority of its officers being always disposed to serve the party offering promotion and lucrative positions.

In 1833 General Santa Anna, who had hitherto claimed a foremost rank among the liberals on the strength of his military services again appeared in the field and overthrew Bustamante, being afterward elected president, with Valentine Gomez Farías as vice-president. Santa Anna, pleading sickness, remained on his estate, and in April of this year the

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vice-president assumed the executive office *ad interim*. Farías, who is considered as the first champion of reform and progress, was a native of Guadalajara, and had won repute as a physician before he entered the political arena. Unfortunately for his aspirations he was of an impatient temperament, and did not allow time for his measures to become fully developed. With his friends' coöperation, however, he gave a great impulse to the reforms initiated by himself in 1831, and adopted by the government in 1833–4. He was a democrat at heart, not ambitious of honors or wealth, moderate and unpretentious, averse to bloodshed, ever disposed to serve his country, and to merit the good-will of his countrymen. His advanced ideas were but little understood by the men around him, but he struggled to preserve the principles of the constitution, which were constantly being violated and outraged. He directed his efforts against the privileged classes, maintaining that the civil authority should always be above the military, and striving to prevent the interference of the clergy in secular affairs. He improved the system of public instruction, and endeavored to abolish the death penalty for political offences, as a principle of public policy. Proscriptive measures he discountenanced, though his reforms, affecting such powerful opponents as the clergy and army, caused violent opposition. Meanwhile Santa Anna watched the situation from his retirement, and when he thought the opportunity had arrived for taking the reins of government into his own hands, he did so, though surrendering them again to Farías a few days later. The country was in a most disturbed condition, and Santa Anna preferred to keep himself aloof until he could appear as the preserver of peace and order. He was finally invited to become the leader of a reactionary movement with unrestricted powers, and after completing his arrangements returned to Mexico and removed Gomez Farías from power at a time when the reform measure di-

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rected against the two most powerful classes in the commonwealth was producing the utmost agitation.

Farias has been blamed by the liberal party for his want of spirit on the occasion; and yet it is probable that his inaction was caused merely by the dislike of being suspected of personal ambition, and of being accused of unconstitutional measures. To his hesitation must be attributed the overthrow in 1834 of all that had been done in the line of reform, and the triumph of a violent reactionary movement, which restored power to the clergy and the army. The reactionists deprived him even of the vice-presidential office, and in after years he suffered persecution and imprisonment for his efforts in the cause of federalism.

The reign of centralism was soon afterward inaugurated. Disorder followed disorder, one party securing the preponderance, to be soon superseded by another. The nation was harassed by a two years' war with the United States, resulting in the loss of a large portion of her most valuable territory. Peace prevailed, but at short intervals, and every interest was paralyzed. At last, in March 1853, Santa Anna assumed the government, and established unqualified centralism, with himself as dictator. He removed from office every man who had any time been opposed to him, suppressed the freedom of the press, increased the army, and pleased the rabble by recalling the jesuits. His pretensions and vanity were displayed by his assuming the title of most serene highness, and reviving the order of Guadalupe, which had been originally instituted by Iturbide. Among his other measures may be mentioned the sale to the United States of the Mesilla valley, which includes the present territory of Arizona, the proceeds being squandered in the furtherance of his own ambitious designs. In 1854, however, the plan of Ayutlo, proclaimed by General Jean Alvarez and Ignacio Comonfort, led to his discomfiture, and henceforth his

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name disappears from the political annals of the republic.

Antonio Lopez de Santa Anna was a native of Jalapa in the state of Vera Cruz, where for many years his father had held office as sub-delegate. When fifteen years of age he adopted the military profession, and for his services during the Spanish invasion was promoted to the rank of general of division. In the revolutionary war he first served as a royalist, and joined Iturbide's fortunes, winning his favor, and afterward causing his overthrow. While in command of the Mexican armies during the war with the United States, he was defeated at every encounter, and yet he was probably the most competent general of his time. His revolutionary career is well known; several times he filled the rôles of president and dictator, and as often found himself in exile. Though he had every opportunity to do his country service, and to win the affection of his compatriots, he proved himself as a soldier faithless to his superiors; as a statesman, void of principle, a mere political weathercock, with self-aggrandizement for his sole motive. As a ruler he was an unmitigated tyrant, and in private life he was notoriously immoral. Proclaimed a traitor at last, he was deprived of his honors; his property was confiscated; and though permitted in his old age to return to Mexico, his last years were passed in obscurity, isolation, and poverty. After his decease, which occurred on the 21st of June, 1876, but few persons of note accompanied his remains to the grave. A pension asked for by his widow was refused by congress, and his loss caused no regret, save to his own personal friends.

With the downfall of Santa Anna came the triumph of the liberal reform party, by whom was elected as president General Alvarez, an old soldier of the revolutionary war, who served afterward in the trigarante army, and later aided Bravo and Guerrero to overthrow Iturbide's empire. During his brief adminis-

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tration many wholesome measures were adopted, among them being the celebrated ley-Juarez, restricting the jurisdiction of ecclesiastical courts, and abolishing the privileges of the clergy and army. Alvarez was not an ambitious man, and disliking the associations of the capital, as well as its climate, resigned the executive office in favor of Ignacio Comonfort. Notwithstanding the political somersault of which he was afterward accused, the latter is entitled to credit for the impulse which he gave to the liberal cause. He was a native of Puebla, a retired militia colonel, and ex-collector of customs, who had been removed from office under circumstances which unjustly cast a stain on his character. In person he was somewhat portly, and of imposing mien, with massive but regular features, to which marks of small-pox gave a repulsive expression that disappeared on closer scrutiny. In disposition he was amiable, conciliatory, and always ready to forgive injuries. Brave and cool in danger, and firm of purpose, he was slow to resolve, but quick in carrying out resolutions once adopted. Generous and open-handed, both in public and private life, he was a man of simple habits, plain and unassuming, but with a certain gravity of deportment which repelled undue familiarity

At first Comonfort began to temporize, the victorious liberal party having already become divided. His first cabinet was composed of men of a high order of talent and integrity, and imbued with liberal ideas. Disturbances occurred in Puebla and elsewhere, openly promoted by the clergy and their conservative allies, but the revolutionists were defeated, and order was reëstablished, though peace was by no means assured.

While the congress was discussing the draft of a new constitution, which embodied a declaration of rights, based on principles which were recognized by the most enlightened nations, the accord between that body and the president, which for a time had been interrupted, was to a great extent restored, through

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the ratification by the legislative chamber of the "ley de desamortizacion civil y eclesiástica," enacted by the executive on the 25th of June, 1856, and afterward known as the ley-Lerdo, from the name of the secretary of the treasury, Miguel Lerdo de Tejada, by whom it was framed. Lerdo was an able statesman, and of the purest type; even the arch-conservative, Arrangoiz, remarking, "persona de mucho talento, y en materias de hacienda, el hombre mas capaz que ha tenido Méjico: pero anticatólico." The partisans of the old system under which three fourths of the landed property in Mexico had been vested in mortmain, opposed the law. Among others, Archbishop La Gaza energetically protested against it, displaying such hostility that he was ordered to leave the country, though he was noted as a man of remarkable piety, and had striven earnestly and not in vain to promote the cause of public education.

The new constitution of February 5, 1857, took effect in the following September, and together with it an electoral law in sixty-seven articles. The opposition of the clergy to this fundamental law was violent in the extreme, and as a consequence all the bishops were banished from the country, among them being Labastida, the present archbishop of Mexico, who figured as a regent during the projected empire of Maximilian. But a terrible storm was impending, whereby, in December 1857, Comonfort was ousted from the presidency, and compelled to leave the republic, returning later to serve in the field against his country's enemies, but only to lose his life in an ambuscade laid for him by the conservatives.

The counter-revolution took place at Tacubaya, and thereby the conservatives, now under General Félix Zuloaga, again found themselves in power at the capital. But all was not to be as they desired. Benito Juarez, as president of the supreme court, became after Comonfort's departure, president *ad interim* of the republic, according to the provisions of

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the constitution, and after the victory of the conservatives, established his headquarters at Vera Cruz, the strength and position of this port, with its sea-girt fortress, making it a favorable point from which to direct the operations of the liberal forces. Though few in numbers, the Juarists had won the confidence of the people by promising release from the oppression of land-owners and of the clergy.

Benito Juarez was a native of Oajaca, and though at twelve years of age unable to speak the Spanish language, he afterward received a liberal education at the state capital, becoming a distinguished professor and lawyer, and as governor of Oajaca, to which office he was twice elected, and also as member of congress, won the respect and esteem of his countrymen. For his adherence to democratic principles in their fullest sense, he suffered persecution at the hands of the dictator, Santa Anna, and was sent into exile, from which he returned after the revolution of 1855, when he was appointed Alvarez' minister of justice. After Comonfort assumed the presidential office he became by popular election, chief justice of the supreme court. In March 1857 he fell into the hands of a conservative force, together with the members of his cabinet, but refused to make any concessions, and was finally rescued.

Juarez was a man of less than medium height, of dark copper color, his features being those of a pure Zapotec Indian, with black, piercing eyes, and a manly expression of countenance. Open and communicative in matters not demanding reserve, he was reticent in state affairs, a man who reflected and deliberated long before taking action. In temperament he was somewhat lymphatic, though full of energy and force, prompt in action, and cool and collected even amid the greatest peril. In his public life he was never accused of corrupt practices, and his private life was equally pure. He devoted his leisure moments to study, especially of history, and was himself

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the author of several works, among them being a compilation from the maxims of Tacitus; but though his attainments were great, he was never known to parade them.

Failing to receive the support of congress, Zuloaga was set aside, and in his place was chosen the young general, Miguel Miramon, who at the age of twenty-six thus found himself at the head of the nation and of the nation's armies. Miramon, though of French descent, was a native of the city of Mexico. He was of medium height, of handsome presence, and of polished address, with an open brow and searching look; a man of intellect, ambitious, brave, resolute, and loyal to his friends. He was educated at the military school, and in 1847 fought at the battles of Molino del Rey and Chapultepec. Afterward he saw much service, and was acknowledged as an able commander, attaining in 1858 the rank of general of division.

A bloody war ensued, which lasted for four years. Fortune for a time favored the conservatives, owing to the superior ability of their leaders, Miramon, Marquez, and Mejía; but the triumph of popular rights came at last, though not until the country had lost thousands of valuable lives, and its resources were almost exhausted. Many excesses were committed by both parties, but the most disgraceful of all was the execution, on the 11th of April, 1859, by order of Miramon or Marquez, or both, of a number of medical students who had come from the city of Mexico to tend the wounded after the battle of Tacubaya, fought on the same day, and in which the liberals, under Degollado, were defeated. Marquez afterward claimed that he acted under peremptory orders, and Miramon denied that his order embraced non-combatants. Be it as it may, eleven youths, while engaged in their work of mercy, were foully murdered, and the conservatives, together with their ecclesiastical allies, must be held answerable for this infamous deed. The last battle of the war was fought between eight and ten

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in the morning of the 22d of December, 1860, on the heights of San Miguel Calpulálpan, between the constitutionalists under Jesus Ortega, and the conservatives under Miramon. The latter were utterly defeated, and thereupon the conservative government collapsed, and its leaders fled, or went into hiding. But before abandoning the capital they divided among themselves $140,000, remaining out of a large sum which had been taken by force from the British legation.

In January 1861 President Juarez entered the capital amid the plaudits of his long-suffering adherents, and with the advice of his ministry forthwith adopted the measures needed for the emergency of the occasion. The liberals were now divided into two parties, which may be termed the constitutionalists and reformists, the former abiding by the constitution of 1857, and the latter being in favor of radical amendments, while a third faction, sustained by the clergy, was somewhat in sympathy with the conservatives. Even in the cabinet there was dissension, caused mainly by financial questions, among them being the suspension of payments on the national debt, and the necessity for forced loans, and an increase of taxation.

While thus occupied, the government soon became aware that the end of Mexico's troubles was not yet, and that she had not indeed seen the worst. The conservatives and clergy would not submit to the requirements of the constitution, nor to the laws passed by Juarez, which deprived the latter of their privileges and estates, and abolished convents, nunneries, and religious societies of every description. Under these laws the power of the clergy for interference in secular affairs was obliterated, and the priests must in future confine themselves to the sphere of their legitimate duties. To this they would not submit, and resolved to continue the fight, and, moreover, to bring to their aid the intervention of foreign powers.

The war broke out afresh, and ere long a tripartite convention was concluded at London in October 1861

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between France, England, and Spain, to interfere in the affairs of Mexico, to aid her people—meaning, of course, the conservatives and clergy—and to establish there a stable government. The pretext for this intervention was to bring about a reliable adjustment and liquidation of the debts due the subjects of those countries, together with a redress of grievances.

The allied forces landed at Vera Cruz, the French contingent being most numerous, and took up positions in the neighborhood of the city. Negotiations were opened with the government of Juarez, culminating in a convention concluded at La Soledad, which would have brought to a friendly settlement all questions pending between the European powers and the republic. But this was not what the French designed. The Spanish and British commissioners, upon detecting in their French colleagues ulterior views not in harmony with the London convention, cut themselves loose, and after a satisfactory understanding with the Mexicans, retired with their forces. In these negotiations Juarez' minister, Manuel Doblado, proved himself a most able diplomatist. The French commissioners, in barefaced violation of the convention of La Soledad, proceeded to carry out their plans single-handed. General Lorencez attempting, on the 5th of May, 1862, to take Puebla by assault, though his attack was repelled by the Mexicans under General Zaragoza. Some months later a powerful French army arrived, under General Forey, whose standard was joined by the Mexican conservatives and clericals. Thereupon Forey organized a provisional government, with the conservative, Juan N. Almonte, as dictator. This personage was a reputed son of the revolutionary leader Morelos, and undoubtedly had Indian blood in his veins. He was educated in the United States, and became a general, though he saw little service in the field. In his political career he held diplomatic positions in some of the most important capitals of Europe, and for a time was minister of war. During

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the French intervention he was president of a regency of three constituted by Forey, and when Archduke Maximilian accepted the crown of Mexico, represented him as regent until his arrival, when he was apointed grand master, and later ambassador to Paris, where he resided till his death, in 1869.

Forey, after completing his preparations, laid siege to Puebla, which surrendered only after the Mexican garrison, commanded by Jesus Ortega, had exhausted all its resources. Next followed his march and unopposed entry into the capital, which had been hastily abandoned by the Juarez government. The French now developed their plan—one in accord with the wishes of the conservatives and clergy, and approved by Napoleon III.—to establish a monarchy, with a prince of his family, or of his selection, as emperor. The crown was tendered to Archduke Maximilian, who, after some formalities, accepted it, with the endorsement of England and the tacit approval of Austria, his mission being, as the French put the matter, to substitute an empire for the tyranny of Juarez. In May 1864 the archduke, with his wife, Charlotte of Belgium, landed at Vera Cruz, and thus Mexico was once more placed under despotic rule.

Meanwhile the war was still in progress, the liberals gradually losing ground, and the French occupying the most important states, while Juarez and the members of his cabinet fled from place to place, and finally took refuge at El Paso, on the frontier of the United States. But his opportunity came at last. The government of the United States, while engaged in civil war, had found it expedient to observe a neutral policy; but at its conclusion, in 1865, it demanded of Napoleon III. that he should withdraw his forces from Mexico, threatening in case of refusal to send against them a powerful American army. Napoleon saw at once that he must comply with this demand, even though Maximilian was left unsupported. The French, under Marshal Bazaine, then began their

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march to the coast, and took no further action in Mexican affairs.

Ferdinand Maximilian Joseph of Hapsburg, archduke of Austria, was educated as a naval officer, soon attaining a high rank in that branch of the Austrian service. In 1857 he was made governor of the Lombardo-Venetian kingdom, and in the same year married the princess Charlotte, a daughter of Leopold I., king of the Belgians. In 1859 he retired into private life, the policy observed in his administration, which won him the regard even of the Italians, then so bitterly hostile to Austria, being considered too liberal by his government, which at that time was one of the most retrogressive and despotic in Europe.

After the departure of the French army, it was apparent to all impartial observers that his abdication had become a necessity, but he deemed it dishonorable to forsake the country while there was a strong party devoted to his interests, the safety of which depended on his presence in Mexico.

In February, 1867, he withdrew with the bulk of his forces to Querétaro, where he was ere long surrounded by the republican army of General Escobedo, and sustained a siege of several weeks. It was at last arranged that the emperor should attempt to cut his way out through the enemy's lines, but before this effort was made, he was taken prisoner, and Querétaro was captured, together with all the garrison. Maximilian and his generals, Miramon and Mejía were subsequently tried by court-martial, and condemned to death. No effort was spared, even by the American government, to induce the president to spare his life; but all proved unavailing, and on the 19th of June, 1867, he was executed with Miramon and Mejía at the Cerrodo las Companas. His remains, which were at first refused by Juarez to the Austrian government, were finally delivered to Admiral Tegethoff, at the request of the Hapsburg family, and conveyed to Vienna for interment. As to

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his wife, all the world knows the story of her mournful fate. Returning to Europe to remonstrate with Napoleon and bespeak the pope's assistance, all without success, she became hopelessly insane through accumulated misfortunes, and there lived her living death.

During his brief reign Maximilian had alienated the support of the church by confirming Juarez' decrees respecting their privileges and estates, to which it seems his wife had contributed by her contemptuous remarks upon the absurd pretensions of the clergy He had endeavored to win over the liberals to his side, whereby he lost a large portion of the conservative support, and if certain confidential letters, said to have been written by him are not apocryphal, he did not act honestly and fairly toward some who had rendered him good service. Though brave and chivalrous he was somewhat of a hypocrite, and though he entertained admirable theories, he wanted the tact and firmness to carry them out; he also lost much time in dictating trivial and inapplicable laws. One of them, however, was of grave import, in which he outlawed all liberals fighting for their country's freedom, and treated them as highwaymen. That law afterward sealed his own doom.

While Maximilian was besieged at Querétaro, stirring events occurred elsewhere. General Porfirio Diaz took Puebla by storm on the 2d of April, 1867. Marquez was subsequently defeated by Diaz, who finally besieged the capital, and compelled it to surrender at discretion on the 20th of June. A few weeks later Juarez and his ministers entered the capital and the work of reconstruction was begun. Certain of his measures gave umbrage to many, and revolutionary movements broke out, which were fortunately suppressed But the attitude of Juarez in again permitting his own reëlection to the presidency, which he had already held for fourteen years, alienated from him a large number of constitutionalists.

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A revolution broke out, of which Porfirio Diaz was chosen as leader, but there is little doubt that the government troops under Rocha were on the point of crushing the rebellion, when the death of President Juarez, on the 18th of July, 1872, brought the war to an end. The voice of passion became hushed; the nation mourned the loss of her chief magistrate and most illustrious son, the champion of national independence, liberty, and democratic principles. If he committed errors, they have been forgotten and forgiven; while the memory of his virtues, his patriotism, and his invaluable services alone survives. His remains were interred with the highest honors, a magnificent monument has been placed over them, and the aniversary of his death is yearly observed as one of national mourning

Sebastian Lerdo de Tejada, the chief justice of the supreme court, became under the constitution president *ad interim* of the republic, and being recognized by all, the war came to an end. When the next presidential election took place, Lerdo was elected by a considerable majority, and the choice received the endorsement of the people. Sebastian Lerdo was a brother of Miguel Lerdo, who drew up the famous law of which I have already spoken. He was a studious man, and an accomplished jurist; had been one of Juarez' ministers during the war, and the people considered him entitled to credit for most of the good work of Juarez' administration. It was also a matter for general satisfaction, that a civilian and an able man should be called peaceably to fill the executive chair. He shared in the applause bestowed on the constitutional amendments adopted by congress in 1873, under which church and state became independent of each other, religious tolerance was proclaimed; marriage declared a civil contract; religious corporations were forbidden to possess real estate or mortgages; and enforced labor was abolished.

Confident of success, Lerdo favored the former par-

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tisans of Juarez, and showed hostility to those of Diaz, known as *porfiristas*. In 1874 he began to exhibit designs looking toward a reëlection, using his influence to elect his partisans in the various states. The result of this was a general discontent, which finally culminated in a revolution, under a plan proclaimed at Tuxtepec, by General Hernandez in January 1876. The revolutionists, who had recognized Porfirio Diaz as their chief, accused the government of violations of the constitution and laws, and of converting the popular suffrage into an engine to further Lerdo's personal ambition. The list of charges embraced other items, and in fact, all that the government had done, or failed to do, was held to be injurious to the nation. It was further demanded in the plan that an addition should be made to the constitution, to forbid the reëlection of the president and state governors for the ensuing term. The revolutionists were triumphant, and Lerdo sought safety in flight, embarking for the United States. The executive office having thus become vacant, was claimed by José María Iglesias, then president of the supreme court. He accordingly organized a government and appointed a cabinet, but as he refused to conform to the demands of the revolutionists, he soon discovered the uselessness of further effort. He had agreed to constitute a cabinet of porfiristas, but this proposal was made too late. Diaz had already made arrangements which could not be set aside, and was unwilling to jeopardize the results obtained by surrendering the situation to a rival who had merely submitted to the force of circumstances. Iglesias and his ministers, Francisco Gomez del Palacio, Joaquin M. Alcalde, and Guillermo Prieto, all of whom were men of the highest standing in the republic, the two first as jurists, and the last as a litterateur and financier, embarked at Manzanillo on the 17th of January, 1877, for San Francisco, California. Diaz was then recognized as the chief magistrate of the republic.

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The provisional government endeavored to reconcile opposing elements with a true spirit of conciliation. Shortly afterward congress announced the election of Diaz to the presidency by an almost unanimous vote in nearly 200 districts; but notwithstanding his conciliatory policy, the partisans of Lerdo maintained an armed opposition; Escobedo, the victor over Maximilian, in Coahuila, Amador in Tamaulipas, and Alvarez in the south. The first was taken prisoner in 1878, conveyed to Mexico, and released on parole; Amador was slain, and Alvarez listened to persuasion, and desisted. The government found itself enabled at last to devote its whole attention to advancing the general interests of the country. The treasury was repleted and reforms were introduced without resorting to the obnoxious methods of depriving retired officers, widows, and orphans of their pensions.

To fill the next presidential term Manuel Gonzalez was chosen, and for the succeeding one Porfirio Diaz, who again assumed the reins of office on the 1st of December, 1884, being elected for a third term, almost without opposition, in 1888.

As the Mexican constitution did not permit a reelection for the ensuing term, Diaz had remained for awhile in private life, but was soon urged to accept a position in his successor's cabinet, which he filled for a short period. He was afterward chosen governor of Oajaca. In 1883 he married Cármen Rubio, the daughter of one of Mexico's most distinguished sons. Manuel Romero Rubio, an able jurist and statesman, had been a firm supporter of President Lerdo, and had marked out a line of policy which the latter disregarded, pursuing a course which ended in his downfall. Though disapproving of Lerdo's late practices, he would not forsake him in his trouble, choosing rather to share his exile, yet presently returning to his country.

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The five Central American divisions, Guatemala, Honduras, Salvador, Nicaragua, and Costa Rica, constituted themselves in 1824 a federal republic, with the name of Estados Federados de Centro America, though the republic had but an ephemeral existence, owing to the intrigues of the self-styled aristocrats and the clergy, who, like those of Mexico, would tolerate no innovations by which their privileges and emoluments might be curtailed. Incessant disturbances prevailed throughout the land, save in Costa Rica, until finally there appeared in the field one Rafael Carrera, first as the champion of the oligarchists, and later as their master. This man was of Indian descent, base-born, and of a violent and irascible disposition, bold, resolute, and persevering. He had been a common servant, a private soldier, and finally a swine-dealer at Mataquescuintla. At the beginning of his public career he was about twenty-five years of age, and lived in the district of Mita, where he had much influence among the lower class of Indians, which was due partly to his connections, and the force of circumstances, but also to his bravery and capabilities. He was extremely ignorant, but he possessed at the same time natural talents and remarkable shrewdness. While the priests were masters, he was a devotee and tool, but when he became powerful, they and their aristocratic allies were made to bow low before him, and receive with christian meekness his insults and abuse. They were then under "el cáite de Carrera." He was repeatedly defeated, but never annihilated, and on the 1st of February, 1838, marched into the city of Guatemala at the head of a rabble of 10,000 Indians, men, women, and children, becoming virtually master of the situation.

From that time Carrera was a power in the land, though he was for the moment prevailed on, for a sum of money, together with the rank of lieutenant-colonel, and the office of comandante of Mita, to retire with his

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horde of robbers. The ex-president of the federation, Francisco Morazan, who had declined the dictatorship tendered him by the oligarchists, attempted to subdue him, but failed, and being himself routed in the city of Guatemala in March 1840, fled to San Salvador, and thence escaped from the country. Morazan's was the last effort to save the union. Several attempts were made at later periods, and even partial federations were established, but all proved ephemeral. The union was not only sundered, but the states were at war with each other, Costa Rica being the only one that escaped the general turmoil, owing chiefly to distance from the scene of the disturbances.

The oligarchists and clergy were now supreme, and Carrera became president. With their advice a repressive system was established in the several sections, now constituted independent states. Ex-president Morazan attempted, in 1842, to restore the federation, seizing the government of Costa Rica, but this effort, successful at first, ended in disaster.

Francisco Morazan must rank in history as in many respects the best, and in all the ablest, man that Central America possessed. He was a native of Honduras, born in 1799, his father being a creole from one of the French West India islands, and his mother a native of Honduras. His education was such as the country could afford at that time, and by quickness of apprehension and application he soon attained prominence. He was impetuous, and full of decision and perseverance; his bearing was free and manly; his manner frank and open. In 1824 he was secretary-general of Honduras, later a senator, and for a time acting chief of that state. In 1830 he was elected president of the confederation, and reëlected in 1834. It has been justly said of Morazan that he was an honest man, and always acted in good faith. His political principles were democratic, and all the cajolery and flattery of the patricians failed to win him to their party, even when tendering him the dic-

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tatorship. Thenceforth sarcasm, ridicule, and abuse were heaped upon him, and at last, when he was defeated in Costa Rica in 1842, his enemies treated him with contumely, and caused him to be shot, without even the form of a trial.

The state of Guatemala, under the immediate rule of Carrera, his brother Sotero, and the brigadier Paiz, groaned under the most galling despotism. In 1845 an unsuccessful attempt was made to kill Carrera, and the conspirators were seized and tried; those who had influential friends were sent into exile; and the rest perished in the damp dungeons of a fort. Guatemala became a republic in 1847; and the other states followed her example. Carrera was forced to resign in the following year, and was ordered to leave the country; but disunion among the liberals and the intrigues of the conservatives brought him back to wreak vengeance on his enemies. He was soon again in power, and in 1854 was made president for life. His despotic sway lasted till his death in 1865. Carrera had led an immoral life; he was lustful and a drunkard; committed heinous crimes, and yet the man believed himself the savior of Guatemala. The clergy called him an instrument of providence, though they had at one time said he was "un antropófago."

During the internecine war raging in Nicaragua in 1854–5, between the liberales and legitimistas, a foreign element appeared upon the field in the person of William Walker, the notorious filibuster, who had shortly before invaded Lower California and Sonora with the hare-brained project of organizing independent republics. Walker was invited by the democrats under Castellon to come to their aid, and landed at Realejo in June 1855 with fifty-eight men. He was a native of Tennessee, well educated, and had followed the medical and legal professions, as well as that of a journalist. He was not more than five feet four inches in height, of plain exterior, and his appearance was that of a dull and stupid man; but

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he was in fact a man of parts, serious, thoughtful, able, and energetic. The most remarkable feature of his face was his brilliant gray-blue eye, full of fire and intelligence. Sincere and devoted to his friends, his enmity was not readily appeased. He was indifferent to personal ease and comfort, as well as to the acquisition of wealth. Though not incapable of lofty conceptions, and possessing courage and self-abnegation, there was little in him, unless it was his unbalanced mind, to entitle him to be called a genius. He aspired to be a Cæsar or Napoleon, but lacked both the field and the qualifications. He might have carved out for himself an honorable and useful career, but ambition for a place among the world's notabilities made him restless, to the extreme of disregarding law and justice. Ambition warped his judgment, and hence the Quixotic project of conquering the Latin race in America. Unfortunately for his plan, he had barely reached Nicaragua before he began committing acts destined to lose for him the confidence of the men most essential to his plans, and without whose aid it was not possible to establish democratic principles. Some of his later measures were reckless, seemingly dictated in utter disregard of the good opinion of mankind. Aspiring to rule in Central America, he began as if already ruler of the world. He opened an energetic campaign, which brought about the retirement from the field of the so-called legitimistas. But under his promptings several political murders were committed. By and by he found himself master of Nicaragua, whereupon the liberal government declared him a traitor and usurper. He then had himself declared president of the republic. His first act showed that he had come to the country as an instrument of the slave-holders in the southern states of the American union. He decreed the abolition of the law of the old confederation, by which African slavery was done away with forever in Central America.

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His usurpation brought against him the combined powers of all the Central Americans, and this at a time when he had invited the hostility of the New York Transit company by seizing their river and lake steamers. Some fighting occurred, with varied success, and he was at last besieged at Rivas, after having wantonly burned the beautiful city of Granada. His forces and supplies becoming greatly reduced, he could make no further resistance; but the allied army allowed his surrender, in April, 1857, to the commander of the United States ship *St Mary's*, on which he embarked together with his men and withdrew from the country. He subsequently made another attempt at invasion in San Juan del Norte, but was captured by the United States naval forces. Walker's last adventure, having a similar purpose, was his invasion in August, 1860, of Honduras, where, landing at Trujillo, he seized the funds of the custom house, which were pledged for the payment of bonds in the hands of British subjects. He was finally captured by the British warship *Icarus*, and surrendered to the Honduran military authorities, by whom he was executed on the 12th of September at Trujillo.

It is somewhat singular that the two most prominent men in effecting the discomfiture of Walker, Juan Rafael Mora and José María Cañas, should themselves meet, at the hands of their Costa Rican countrymen, a similar fate to that of the notorious filibuster. Mora, being the president of Costa Rica, was deposed, and sent into exile. He took up his residence in Salvador, but soon was persuaded to return and renew his power. Not finding himself properly supported, he surrendered to the authorities on the 30th of September, 1860, and was shot three hours later. This judicial murder of a just and honorable man, who had served his country faithfully, caused general consternation and displeasure; his execution being attributed to bitter personal animosity,

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on the part of Vicente Aguilar, minister of war, who owed him large sums of money. José María Cañas, also one of Costa Rica's foremost men, was shot two days afterward.

At the death of Carrera, the presidency of Guatemala fell into the hands of Vicente Cerna, who continued the retrogressive policy of his predecessor. He was also a great friend of the Jesuits, who had recently become numerous and wealthy. Discontent prevailed everywhere, and finally the government of President Dueñas in Salvador fell to the ground in April, 1871, while Cerna's succumbed soon afterward under the defeat suffered at San Lúcas at the hands of the democrats under Miguel García Granados, and Justo Rufino Barrios. Granados became provisional president, and organized the government under a liberal régime, expelled the Jesuits, and banished the archbishop. He was a man of ability and patriotic views, but too easy and kind-hearted to deal with such unscrupulous men as those who shaped the designs of the conservatives. Disturbances followed in quick succcssion. There was war in the mountains, kept up by conservative gold. The government with the coöperation of Barrios expelled a number of Spanish friars, closed all the monasteries, and succeeded in putting an end to the war for a time. Granados, who was in poor health, now came to the conclusion that Barrios was the fittest personage to hold in subjection men of evil supremacy and enemies to liberal institutions. He accordingly transferred to him the executive power, and he was subsequently elected president by popular vote, assuming office on the 4th of June, 1873. Barrios was born in 1834 at San Márcos, in the department of Quezaltenango. He was educated at Guatemala for a notary-public, and received his commission, but does not seem to have acted in that capacity. He was of about medium height, rather light in complexion, with a

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cold, distant look, and plain and unassuming in dress. In manner he was brusque, unconventional, and wanting in refinement. When first he was made president he was illiterate; but he was possessed of that rarest illumination of genius, the knowledge of his own ignorance. With a far-reaching mind and untiring industry was united a determination to serve himself and his country, for he saw that by serving his country he could best serve himself. Acts of despotism and brutality he committed without number, making priests and oligarchs tremble; but he gave his country religious and intellectual emancipation. He did for Central America what Juarez did for Mexico, in delivering the land from the baneful power of the clergy. Yet he was red-handed and treacherous, like too many of his race, and utterly regardless of truth and veracity. He did not fail to enrich himself, for the wise man does not despise money. He was a bad man doing a good work, for he secured to Guatemala liberal institutions, internal peace, and the advancement of education, agriculture, commerce, and wealth. The country was supplied with schools, as it had never been before, with railroads, telegraphs, and many other appliances of civilization. The capital had lost the old monkish and funereal aspect, and wore a modern look as evidence that the ideas of the present age were fully recognized.

Barrios had repeated difficulties with the rulers of the other states, some of them culminating in war. He loved to domineer; but the fact remains that in 1876, after a successful campaign against Salvador and Honduras, when he had these two republics at his mercy, he extended to them generous treatment. Reëlected in 1876, a plot was laid during his second term to murder him and other leading persons, to sack the capital, and bring about a revolution. The parties implicated were tried by court-martial and

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convicted. Seventeen of the leaders, including the commandant of artillery, were shot; and accomplices of lower degree received other penalties, but were eventually pardoned by the president. Nor was this the only attempt made to kill this man who himself had killed so many.

Guatemala had been hitherto without a fundamental law, the president acting with dictatorial powers. In March 1879 a constituent assembly was summoned, before which he surrendered his office, and in the same year a constitution was adopted, under which he was reëlected for the term ending March 1, 1886. Soon afterward he visited the United States, and through the mediation of the American president settled the boundary question with Mexico as to the district of Soconusco.

The idea of the reconstruction of the Central American nationality occupied Barrios' mind. He endeavored to bring it about by peaceful means; but after much patient negotiation became convinced that this object could be accomplished only by force. Believing that he could depend on the coöperation of the presidents of Salvador and Honduras, he obtained the assent of the Guatemala assembly; but the president of Salvador failed him. He then undertook to coerce the latter, and lost his life on the 2d of April, 1885, in an assault against the fortification of Chalchuapa. His remains were rescued and conveyed to the capital.

Before presenting the historic frame work of California, I will give the biographies of two of her governors, John G. Downey and George C. Perkins, which will aptly illustrate the duties and requirements of the position, and the quality of men who sometimes filled it, at the same time enabling the reader the better to understand what follows.

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CHAPTER IV.

LIFE OF JOHN G. DOWNEY.

POLITICAL CAMPAIGN OF 1859—PARENTAGE, ANCESTRY, AND EDUCATION—BUSINESS APPRENTICESHIP—JOURNEY TO CALIFORNIA—EARLY EXPERIENCE—AT LOS ANGELES—REAL ESTATE AND BUILDING—MRS DOWNEY—POLITICAL CAREER—THE PARSONS BULKHEAD BILL—OPINIONS OF THE PRESS—APPROBATION OF THE GOVERNOR'S POLICY.

"THAT character is power," it has been well remarked, "is true in a much higher sense than that knowledge is power." The mere possession of intelligence without the moral worth which should accompany it, of mind without heart, of ability without the safeguards which should control it, are, indeed, powers of themselves, though too often powers for evil. Integrity, uprightness, and a strict regard for truth, or, as an old writer puts it, "that inbred loyalty to virtue which can serve her without a livery," constitute the truest nobility of character, and he who is the possessor of such qualities, when united with force of will, wields an influence for good that cannot fail to leave its impress. Such men come not in troops, not many, perhaps not one in a lifetime, but a single individual, whose moral nature has been fashioned in such a mould, is worth a myriad of the baser sort.

It is a well-known saying that "a man is already of consequence in the world when it is known that we can implicitly rely upon him." And more especially is this quality valuable in those who control the affairs of state or nation.

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John G. Downey

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CHAPTER IV.

[illegible] OF [illegible] TO CALIFORNIA.

[illegible] Arrival at San Francisco — Accident and Peculiar Position — Voyage to California — Fellow-Passengers — Arrival at Monterey — Reception and Breeding — Mr. [illegible] — Old Colonial Families — Broad Hint — Offer of Assistance — Mr. [illegible]'s Policy.

"Power corrupts; absolute power corrupts absolutely." It has been remarked, by [illegible], that "great power seems to change the character." The more possessions and the more power, which should accompany wealth, without it, or, if ability without wealth, should control it, are, indeed, [illegible] of, the ghostly counsel powers of [illegible] [illegible] strict regard to the [illegible] with [illegible], "that inbred loyalty to [illegible] can survive the want of a livery," constitute the best nobility of character, and he who [illegible] of such qualities, when united with [illegible] is an influence for good that cannot be [illegible]. Such men come but in the [illegible] perhaps not once in a lifetime, but a [illegible] whose moral nature has been fashioned [illegible] is worth a myriad of the lesser [illegible] well knows, saying that "a man is [illegible] in the world when it is known that we [illegible] him." And more especially [illegible] in those who control the [illegible] of state or nation.

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John G. Downey

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It was in the midst of exciting scenes, when on the 14th day of January 1860, John G. Downey took his seat as the governor of California. The most momentous issues of state and nation were at stake. At home the blood set boiling by one of the most notable campaigns of California's political history had not yet cooled, while far away was heard the low rumble of coming civil strife. The spirit of chivalry had not wholly departed. The bowie-knife and revolver were still elements in the formation and maintenance of opinion. The question of slavery was paramount over all. Political parties and personal feeling were alike profoundly moved. All felt that a turning point in the destinies of the nation had been reached.

Champions of their respective parties were the United States senators, David C. Broderick, anti-Lecompton, or anti-slavery democrat, and William M. Gwin, whose agents managed the pro-slavery division of the democrats. The gubernatorial election of 1859 had returned Milton S. Latham for governor, and John G. Downey lieutenant-governor, over the republican candidates Leland Stanford for governor, and James F. Kennedy for lieutenant-governor. Broderick and Gwin had both come on from Washington to take part in the canvass, which became very heated and early threatened bloodshed. A devoted follower of Gwin, and consequently an enemy of his rival, was David S. Terry, judge of the supreme court.

As the campaign proceeded, and the combatants waxed hotter, a quarrel arose between Terry and Broderick, leading to a duel, which resulted in the death of the latter. The seat in the United States senate thus made vacant was filled temporarily by Henry P. Haun; but on the day after Latham's inauguration as governor of California the legislature in joint convention elected him to Broderick's late position, and he at once vacated the executive office,

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thus constituting John G. Downey the seventh governor of the state.

The man thus elevated to the highest office of the state was a native of Ireland, having been born in his grandfather's house called Castle Sampson, county Roscommon, June 24, 1827. His father's name was Dennis Downey and his mother's Bridget Gately. Among his ancestors were several, as early as the ninth and tenth centuries, distinguished as chiefs, bishops, and abbots. Castle Sampson was a story and a half house, built of cut stone, the material having been taken from an old Norman castle. Dennis Downey was as fine a looking man as the country could boast, standing five feet eight inches in his stocking-feet, and being able to jump into the saddle while the horse was in full run. And he was as strong mentally as physically. The family were all catholics, and well educated, Governor Downey's grandfather having kept his children at school until they were twenty-one.

The boy John was brought up to work; indeed, few men in America are found having accomplished anything in life who did not learn the lessons of application in early life. All kinds of farm work became familiar to him, haying, ploughing, and raising stock.

After a preliminary education under the eminently practical system maintained in the national schools of Ireland, John came to America, whither two half-sisters had preceded him, in 1842, and attended a Latin school in Maryland under the tuition of a Mr Cochran. He walked three miles to school, carrying his luncheon and books. In his studies his tastes leaned toward the classics rather than toward mathematics.

His sisters desired him to become a priest, in which calling, as I have said, his relatives had been eminent; but John's inclinations were not in that direction, and he was apprenticed to learn the drug business in Washington with John F. Callan. Next he

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went south, and spent a year in a drug and stationery store at Vicksburg. In 1846 he turned his face westward, pausing for three years at Cincinnati, where he was full business partner with a kind old Scotchman, John Darling. In 1849 he came on to California.

All through his earlier life his mind had been filled with visions of broad acres as the only real and proper foundation for wealth and prosperity; and although it was the gold excitement which first directed his attention to the Pacific coast, land rather than metal was uppermost in his mind as the ultimate purpose. Darling had endeavored to dissuade him from going to California, but Downey felt that in this favored land he could best achieve his destiny. And it was a rare intelligence that thus early in life led him to rest his fortunes on the substantial property of land rather than give himself up to glittering allurements of gold.

The journey was made by way of the Isthmus, with a little time spent at New Orleans and Habana. From Panamá, his steamer on the Pacific side, the *West Point*, failing to make her connection, he was obliged to proceed on the old store-ship *Sarah* to San Francisco, the voyage occupying eighty-seven days.

Downey had just ten dollars in silver, and a gold watch, when he landed in San Francisco. Of course he must see the mines, if only to take a dose and become sick of them. So he pawned his watch for sixty dollars, went to Sacramento, thence to Marysville and Grass Valley, and after a short experience of working in water up to his knees, and getting little for it, he was satisfied he had enough of it hence returning to Sacramento, he rolled barrels on the levee for passage-money back to the bay. For two weeks he clerked for a Jew, after which he obtained employment in the wholesale drug-house of Henry Johnson & Co. on Dupont street.

With such an experience and such a position most

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men of that period would have been content; but not so Downey. Gold mining and its more immediate influences and results might do for those more imbued than he with the gambling spirit of the Inferno; for him a broad expanse of good land under a beautiful and beneficent sky was still the dominant idea.

One day he picked up a little paper printed at Los Angeles which gave some account of southern California. His attention was instantly arrested. He read on, made inquiries, and thought, and read again, becoming more and more satisfied that here was what he wanted. Among others on whom he called to ask information was W. D. M. Howard, who knew all about the country.

"What in the world do you want to go there for with your drugs?" Howard asked. "It is the healthiest country in the world."

"Well, tell me how many people are now there," Downey replied, "and I will teach them how to take medicine."

Learning of an invoice of goods shipped to a glutted market from Philadelphia, Downey bought it for twenty per cent less than original cost, and proceeding to Los Angeles he opened a drug-store. This was in 1850. The voyage down by schooner had occupied three weeks, and he walked a good portion of the way from San Pedro to save ten dollars. Such was the entry into Los Angeles of one of its first citizens.

But the country around and beyond, ah! there were the health and beauty satisfying to the heart of the enterprising young man. It was December, and the world was all abloom—I need not pause here to describe Los Angeles in December.

Downey at once found a business associate in Dr McFarland of Tennessee, and they made a fine showing with their $1,800 of stock on the property owned by B. D. Wilson. It was then the only drug store between San Francisco and San Diego, and people

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used to come all the way from Sonora for medicines. At the end of three years Downey had thirty thousand dollars.

He then sold out the drug-store and engaged in cattle and sheepraising. He was now in his element, besides being on the highway to fortune. We cannot help being struck by the singular foresight, amounting almost to inspiration, which prompted a young ambitious man to leave the exciting scenes attending gold-mining up the Sacramento, the speculations of commerce and real estate in San Francisco, and also a remarkably prosperous business career in Los Angeles, and bury himself in the country amid his lands and herds. But so it was, although it took some others two or three decades to see the wisdom of it.

When Downey prophesied that ere long Los Angeles would be a city of 40,000 inhabitants, the centre of education and refinement for all this wide section, he was laughed at. But he went his way, following the bent of his rare intelligence. He bought land all around where the city of Downey now is, in the vicinity of Wilmington and San Pedro, and elsewhere, until in the end his acres numbered 75,000, besides a large amount of city property. His Santa Gertrudes rancho, adjoining the Stearns rancho, is renowned for its beauty and wealth of resource, and for its mineral hot springs. He delivered addresses and wrote articles tending to advance the well-being of the country. He published a pamphlet on the peculiar advantages here offered, which was distributed near and far. With mind and heart full of the substantial charms of climate and soil, he discussed the attractive features of the country in his graphic and cogent style, which had a marked effect in bringing about the present prosperous state of things. He was always first among those who took practical and business-like steps toward the accomplishment of this end. He was in favor of a division of the state,

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believing that the northern and southern sections had not that identity of interests that warranted their remaining politically together. He was the first to cut up his land into small tracts, selling it at ten dollars an acre, and giving the buyer ten years in which to pay for it. This was the very beginning of the prosperity of the country. The colony at Anaheim was the result of these enlightened and far-reaching measures, the founders being entertained and encouraged by him, and the place being named in honor of his sister. The first important building in Los Angeles was the Downey block, begun in 1869. The site was selected as the assured centre, whichever way the town might grow. It cost $16,500, and he had ten years in which to pay for it. He erected one part and then another, finishing it up as the rents came in. He had no architect or contractor, but superintended it all himself, the work being done by the day.

Governor Downey was first married in 1852 at Los Angeles, to Miss Guirado, a native of Los Angeles county, and daughter of Don Rafael Guirado, who came from Sonora and settled here in 1835. Mrs Downey possessed much grace and charm of manner, and sustained the high position she was called upon to fill at the state capital with courtesy and dignity. She was also distinguished at Los Angeles for her piety and benevolence; and on the occasion of her sad death, which occurred in an accident on the Southern Pacific railway, near Tehachapi, January 20, 1883, many eloquent and heartfelt expressions of sorrow from her wide circle of acquaintances testified to the high place she had occupied in their esteem. Her wedded life was unblessed with children, and she was especially kind to the orphan. Governor Downey was on the same train, and suffered in the disaster by having several ribs broken, and his constitution so shattered that he has never entirely recovered. To his present wife, Rosa V. Kelley, he was married in the spring of 1888.

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Men who, like John G. Downey, while building up themselves are building up the commonwealth, who, while achieving fortune, are assisting in laying broader and deeper the foundations of the state and nation, of liberal ideas and free institutions, hardly realize the grandeur of their position, or the proud possibilities flowing from them and their work. Look along the annals of our country, and see how in certain instances the character and actions of men have affected the destinies of the people. In the development of our coast the story is told of a certain miner who, from disappointment and loss of courage under failure, poisoned his family and killed himself, his successor in the mine finding a million-dollar deposit only three feet from where the suicide ceased his labors. Such is failure, and such the corresponding influence of success.

Entering more fully into the analysis of the personnel and character of Governor Downey, we find a man five feet six inches in height, of square build, fair complexion, his present white hair being once auburn, hazel eyes, deep and keen, manner courteous, and with a quick and concise speech. Possessed naturally of a strong intellect, he has ever thought for himself, and has been guided along the intricate pathway of his life by honorable aspirations and an enlightened conviction.

Some have a genius for plunging at once into the heart of a proposition, while others, having a less firm grip upon their faculties, arrive at results step by step through infinite toil, and by the severest mental or physical effort. Governor Downey's maxim through life has been to follow his first honest impulse; not that it was deemed infallible, but as something not to be departed from without sufficient reason. When differing from others, as he was often called upon to do, he had always a reason satisfying to himself, though not always feeling obliged to express it. He has ever been held in high esteem by his fellow-citi-

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zens and associates, and is regarded as the father of latter-day development.

His manner is dignified, yet genial and hearty, and he possesses agreeable conversational gifts. He is unaffected and outspoken in his opinions, has the faculty of making and keeping friends, and is a generally popular man among the large number of those who know him. He has great reason to be proud of his record, which may stand forth for all time an honorable one in all respects. As governor he served the state faithfully, honestly, and with distinguished ability; regardless of private or partisan ends, he looked to the good of the whole people, and brought honor upon his state and upon himself. In private life the governor's career has been one of marked success, and his character irreproachable. It is such men as Governor John G. Downey to whom California owes the tribute of everlasting gratitude for disinterested, whole-souled devotion to her best interests, and her consequent preëminence among her sister states. As a private citizen his life has been identified with the important interests of California, He is conspicuous among the pioneers and builders in a new land—men who lay the foundation for civilization, and whose spirit and handiwork are recognized in the superstructure so long as they live. But it has been the fortune and honor of Governor Downey to have his name written in letters of gold on the pages of California's record as the conservator of public weal.

His charities have been constant and munificent, and not confined to sect or creed. "When the university of southern California was projected," he says, "I donated to them property in Los Angeles which would probably bring a million dollars at the present time. The catholic bishop sent for me and wanted to know if I had left the church. I told him no, but that the work these men were doing was just as acceptable in the sight of God as the work of

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our church, and that I had already done a great deal for the catholics here and at San Bernardino, giving them land and money."

He was ever interested in the public affairs of state and nation. When a boy at school, by association he was inclined to be a whig in sentiment, but after he had thoroughly examined the course of the democratic party, and noted how it fought for the constitution, he forthwith took his stand on that platform, where he has remained ever since, though often voting an independent ticket. He has filled many offices of honor and trust besides that of governor, among them the collectorship of the port of San Pedro, councilman, and member of the assembly. He was one of the organizers of the Farmers and Merchants bank.

When he took his seat as governor he was but thirty-two years of age. It had been arranged beforehand that Latham should retire, and that he should be installed governor. He was president of the senate and lieutenant-governor but for five days. Though young in years when he became chief executive of the state, his administration was marked by maturity of judgment. A leading editor of the day thus writes: "Downey won the gratitude of the friends of a free press by pocketing a bill concerning libel, intended to punish for their outspoken, honest editorials certain papers at the bay that lashed the treasury thieves into continuous fury. The gratitude of the bay city people toward the Los Angeles apothecary, who played the part of governor so much better than any of his predecessors had done, was unbounded. There was nothing they would not have given him, but that his southern proclivities drew him toward the close of his term upon a rock which in stormy times no craft could graze without serious damage."

Indeed, he but expressed the opinion of the people when on the 8th of January 1862, in yielding the executive chair to his successor, Leland Stanford, he

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inscribed in the annals of the state: "Every department of the government has been conducted in such a manner as cannot fail to give confidence and satisfaction to the people. The appropriations made by the legislature have been faithfully disbursed for the objects for which they were intended, and in strict conformity with the requirements of law."

Surrounding this legislature was a strong lobby, which made its presence felt by all; but the governor, who had entered upon his duties with a modest depreciation of his abilities, displayed throughout executive powers of no mean order. While ever vigilant, he was not arbitrary; with broad views and serene temper, he held the scales of justice with a steady hand.

Concerning a bill introduced by Dr I. S. Titus, proposing to allow certain counties to retain the state's portion of the foreign miners' license tax, etc., in his veto the governor said: "We have been for years trying to arrive at a cash paying basis, and now that the object has been accomplished, and the people gratified with the results, you are about to return by lavish and unheard-of appropriations to our former state of bankruptcy. I consider this bill unjust, and wanting in good faith to the other counties of the state. It is time this system of legislation was arrested."

On the 29th of March, 1861, the governor vetoed a bill by Watt, to incorporate the town of Grass Valley, which provided that the people, by vote, at a formal election, should have power to impose on the property of the town such rate of taxation as they might desire. The governor declared that "it was never the intention of the framers of the constitution to give this unlimited power of taxation to the people; that power is wisely vested in the legislature, and cannot be transferred without constitutional restrictions. I regard this bill as clearly unconstitutional."

In refusing to sign a city toll-road bill the governor,

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referring to the map, said, "It will be seen that a toll-gate is attempted to be placed almost in the very heart of the city regardless of any expression of the will of the property-owners and residents along the route, or of first obtaining the consent of the board of supervisors. I regard every toll-gate on roads or streets leading to or from San Francisco as objectionable, not only to the residents of the city, but also to those having business to transact in our commercial metropolis. The board of supervisors should be empowered to get possession of these roads and maintain them as public highways. In their present condition they can only be looked upon as public nuisances."

But the act of all others which crowned his political career with fadeless glory was that which defeated the vile purposes of a band of schemers having an eye of evil intent on the commercial prosperity of San Francisco. It was called the Parsons Bulkhead bill, introduced in the legislature in 1860 by Titus, proposing to grant to the San Francisco Dock and Wharf company, composed of Levi Parsons, John Crane, H. S. Gates, J. Mora Moss, Abel Guy, John Nightingale, and John B. Felton, the syndicate being represented in San Francisco by the firm of Pioche, Bayerque & Co., the right to build upon the water line of 1851 a bulkhead or seawall, with piers, wharves, and docks, with the right to collect tolls, etc., and also appropriate to themselves any lands, wharves, or franchise rights along the line belonging to the city, and take possession of any private property on making compensation therefor, thus securing for fifty years control of the water front of the city of San Francisco from Black point to Mission bay.

In stating his objections the governor said: "After giving this bill the most careful consideration in all its details, I am led to the irresistible conclusion that its provisions are not only in conflict with the constitution and the principles of natural justice, but that

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the measure, as a whole, is calculated to work irreparable injury to our commerce, internal and external, of which San Francisco is, and must ever remain, the metropolis. . . . There is no public object contemplated by the present bill but what has been already provided for by the various enactments referred to; and the franchise which it proposes to confer upon the Dock and Wharf company has, by a previous grant, been irrevocably disposed of. The right to construct the front streets or to build a bulkhead, with the necessary wharves, piers, and docks, with the right and duty to provide for the repair and regulation of these works, including the right to collect and fix the rates of wharfage, tolls, and dockage, has heretofore been granted to the city and county of San Francisco, though not in the same words adopted in this bill, yet in terms not less comprehensive and effectual. Assured by such legislation, the city has heretofore constructed wharves for the accommodation of commerce, under various contracts, which, in several cases, were defectively executed, have been confirmed by special legislative acts. The wharves have been leased out for terms of years, which, in most cases, will expire in 1862. The rents of some of them are placed under the control of the commissioners of the funded debt of 1851, and are sacredly pledged for the payment of the city indebtedness. I do not intend to intimate an opinion that under existing legislation the city and county of San Francisco is invested with the exclusive right to build wharves and collect wharfage except outside of the water front; nor but that under the present, or any constitutional legislation on the subject, the entire water front of San Francisco would be as free to those engaged in trade as the seashore, or any public highway in the state, subject only to such regulations as the city or state in the exercise of the necessary powers of government independent of any right of property may think proper to impose, for the benefit of

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trade or the maintenance of public order. It would doubtless be the true policy of the state to maintain that freedom to the fullest extent to which it now exists. In the adoption and maintenance of this policy, the disposition and interest of San Francisco, as well as the state at large, would be in perfect harmony. This bill then attempts to divest and impair the rights of property growing out of previous acts of the legislature, which are to be regarded as contracts. The bill also empowers the Dock and Wharf company to take and appropriate private property, not for any such public use as contemplated by the constitutional provisions on the subject, but to facilitate a private enterprise, and augment the profits of its stockholders. I regard the bill, therefore, as plainly repugnant to section 10, article 1, of the federal constitution, and to section 16, article 1, of the constitution of this state. The state, on the ground of the highest policy, as well as of natural justice, should regard its faith in whatever form given, and the rights of private property, as inviolable. The habitual disregard of the one or the other would destroy industry, and arrest all useful progress. Property, legitimately acquired, is the product and reward of labor. If it be not secure, men will not work for it, and universal indolence and crime will succeed. Besides the unconstitutionality of the measure under consideration, I deem it my imperative duty to withhold the executive sanction for other reasons not less cogent. On any ordinary grounds of state policy I should defer to the opinions of a majority of the two houses of the legislature; but when a proposed measure is calculated, as I believe this is, to bring upon the state great and irreparable injury, I conceive it my duty to assume the responsibility, and arrest it. Monopolies are odious; they are especially repugnant to the genius of our government, and to the habits and opinions of our people. They are to be tolerated only in cases of great necessity, a condition

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which does not exist with respect to the objects proposed by this bill. The value of the franchise which it grants, and which has been sought with great avidity for nearly five years, has been estimated at several millions of dollars, and it has been reasonably calculated that the net receipts of the existing wharves at the expiration of the present leases, say in 1862, will amount to half a million of dollars annually. All this is donated to the Dock and Wharf company. With the income arising from the profits granted, without any additional capital, the company might probably build the contemplated works, as the city or state might do, if those funds were retained. In the latter case the work would be public property, and the income would go into the public treasury. In return for these large and perpetually increasing revenues, what does the state receive? Five per cent of the gross amount realized by the Dock and Wharf company to be placed to the credit of the state school fund. In effect, the company refunds, for school purposes, a very small portion of the donation. It receives from the state $100, and gives back $5 out of the amount received. It would afford some relief to those who bear the burdens of the government to get back even that small portion of what the state parted with without consideration; but this five per cent is necessarily made an additional tax upon commerce, and in case the state or city should repurchase, or the works revert, every dollar thus received into the school fund would have to be repaid to the Dock and Wharf company with interest. The Dock and Wharf company once invested with the franchise and revenues granted by this act, if it should become a law, would in a short time, by means of its vast capital and exclusive privileges, be able to control, to a great extent, the commerce, as well as the legislation and policy of the city and state. It would, by degrees, monopolize every important branch of trade. It might use its power to control the market, producing an inflation

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or depression as its interests might dictate. Thousands of laborers, constantly depending upon the company or its policy for employment, might at any time, to secure its purposes, be deprived of their only means of subsistence. The power and influence of this company would also, in time, procure a removal of all restrictions, and the right of repurchase or reversion contained in this bill would be compromised and surrendered. The franchise would then be perpetual in terms, as under this bill it is now in effect. No greater injury could be inflicted upon the state than to expose her commerce to the domination of such an establishment. San Francisco herself would suffer less by it than the producers and consumers of other parts of the country, who would be dependent on her market. The burdens imposed would fall chiefly upon them, but all alike have a common interest in the establishment and maintenance of free trade."

All over the state the public journals rang with the praises of Governor Downey. One says: "California has reason to be proud of the man now filling the executive chair. Through all the conflict of public opinion, through the heat and beyond the influence of sectional political organizations, through the spirit of partisan feeling, and against the moneyed power and pressure at the capital for the passage of fraudulent schemes of legislation, he has stood bold and firm, like a skilful mariner guiding the helm of the ship of state. His record will be a moving power in the hearts of the people, and a monument to the man who has on every occasion rebuked the importunities of political tricksters and self-constituted party leaders, and who dared to do right in the honest discharge of his whole duty."

Another remarks on his message: "It is a clear, practical document. His style is such as to elicit a desire for cool discussion, not angry debate." And thus a public body: "Whereas John G. Downey,

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governor of the state of California, by his firm and fearless conduct officially displayed during the last session of the legislature of the state, in opposition to the acts of that body detrimental to the rights and interests of our city, has merited the approbation and gratitude of the people of San Francisco; therefore resolved that we, the board of supervisors of the city and county of San Francisco, hereby tender our sincere and fervent thanks to his excellency, and that the president of the board of supervisors be requested to transmit to him a copy of this resolution."

Privately the governor remarked upon the subject: "Levi Parsons came to see me about the Bulkhead bill, and I gave him to understand at once that he need not talk to me about it; and I put him down. 'It takes a man of some ability,' I said to him 'to distinguish himself in the senate, but any man with the right heart in the right place can make a good governor.' And I further told him that I thought I was the right man in the right place. Said Parsons, 'I am a man who will go round the world once for a friend, and twice for an enemy. Said I, 'as my time is precious, you had better start on your journey for the enemy, for I propose to put down that bill.'"

Turn, finally, to the pages of contemporaneous history, and see how the public measures of Governor Downey are recorded there. "Latham, having achieved the object of his ambition, resigned the reins of state government to John G. Downey, lieutenant-governor, a man without political history or experience, but not destined to be without a popularity, especially in San Francisco, quite new to chief executives in California. The legislature shaped its labors mainly with the view of securing all the patronage possible for the democratic party, that it might go with reasonable expectations into the presidential election of the coming fall. It passed bills for the inspection of beef and pork, and multiplied licenses, not so much for revenue purposes, or because those

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staples needed inspection, as because favorites and men skilled in the tactics of primary conventions wanted paying places. It crowned its unwelcome labors with an act authorizing substantially the joint wharf companies of San Francisco to build a seawall, or bulkhead, along the city front, and to take toll of all that passed it into the city for fifty years to come; meanwhile mocking the state with the tender of the reserved right to buy the work on completion at cost and ten per cent yearly interest. It was a barefaced imposition of a heavy tax on commerce for the benefit of speculators, which San Francisco resented with profound indignation.

"Now it had been claimed that Latham was pledged against the scheme, and that, knowing he could not be moved to favor it, he was sent to the senate by the bulkheaders' influence, to get him out of the way. If so they calculated without their true host. Governor Downey lacked experience, but not resolution, and when the enrolled bill went to him for the executive sanction he vetoed it.

"The bulkheaders were boiling with wrath; San Francisco went into ecstacies. The citizens demanded a visit from the little governor of Irish birth and iron backbone, and when he reluctantly consented, they met him at the Sacramento boat with a torchlight procession that shamed every precedent in that line. They escorted him to his temporary residence with music, and banners, and cheers, through streets illuminated with bonfires, costly pyrotechnics, and transparencies, exhibiting mottoes of welcome, and with rockets, roman candles, and triumphal arches over the route."

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CHAPTER V.

LIFE OF GEORGE CLEMENT PERKINS.

ANCESTRY, PARENTAGE, AND EDUCATION—AT SEA—INTERVIEW WITH KING OSCAR — ARRIVAL IN CALIFORNIA — STORE-KEEPING AT OROVILLE — GOODALL, NELSON, AND PERKINS—PACIFIC COAST RAILWAY—OTHER ENTERPRISES—POLITICAL CAREER—GOVERNOR OF CALIFORNIA—CHARITABLE AND FRATERNAL SOCIETIES—WIFE AND CHILDREN—APPEARANCE AND CHARACTER.

THAT one man in his life plays many parts is a saying that applies more generally to the citizens of California than to any community in the world. There are thousands of those citizens who before reaching middle life have engaged in a dozen or perhaps a score of occupations. Beginning frequently with mining, we find them equally at home as merchants, farmers, doctors, lawyers, professors, or preachers, ending their career not infrequently as members of the national legislature, or holding in their adopted state offices of trust and responsibility.

As a type of our California-made men, of those whose energy and long-continued toil, whose foresight and judgment, whose strict adherence to well-defined and comprehensive plans have fashioned their own and their country's fortunes, we may point with pride to George Clement Perkins, who began life as a sailor boy, became successively a miner, a clerk, a store-keeper, a farmer, a banker, a shipowner, a railroad president, and governor of the state, and with numberless enterprises tending to the common good he has been for years connected. By such men the homes of California have been established; by

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CHAPTER V.

LIFE OF GEORGE CLEMENT PERKINS.

Birth, Parentage and Education—At Sea—Interests With Flint, Bixby & Co.—Arrival in California—Store-keeping at Oroville—Mining, Navigation, and Perkins' Pacific Coast Railway—Offices—Political Career—Governor of California—Clay Street Fraternal Societies—Wife and Children—Appearance and Character.

That one man in his life plays many parts is a saying that applies more generally to the citizens of California than to any community in the world. There are thousands of those citizens who before reaching middle life have engaged in a dozen or more lines of occupations. Beginning frequently with mining, we find them equally at home as merchants, farmers, doctors, lawyers, professors, or preachers, ending their career not infrequently as members of the national legislature, or holding in their adopted state offices of trust and responsibility.

As a type of our California made men, of those whose energy and long-continued toil, whose foresight and judgment, whose strict adherence to well defined and comprehensive plans have fashioned their own and their country's fortunes, we may point with pride to George Clement Perkins, who began life as a poor boy, became successively a miner, a clerk, a lumberer, a farmer, a banker, a shipowner, a railroad president, and governor of the state, and who in enterprises tending to the common good has for years connected. By such men as [illegible] of California have been established, by

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Geo. C. Jenkins

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them the land has been enriched and beautified, its resources developed, its commerce and agriculture expanded, until to-day a leading rank has been attained among commercial and agricultural states.

It was in October 1855 when Mr Perkins first landed in San Francisco. He was at that time a stout-hearted and self-reliant youth, about sixteen years of age, of sanguine and cheerful temperament, not easily discouraged, and with an immense capacity for work. Investing his few remaining dollars in a shotgun, a revolver, and a pick and shovel—the regulation outfit of those days—he went to work on the wharf, and earned his passage to Sacramento, en route for the mines.

Born on the 23d of August 1839, in the seaport of Kennebunkport, Maine, Mr Perkins' ancestry is traced back to the days when Sir Ferdinand Georges received from James I a patent to the territory lying between the fortieth and forty-eighth parallels, and was appointed governor general of New England. Of English descent, his forefathers were among the earliest settlers in Maine. They were earnest, laborious, and strong-headed people, of deep religious convictions. Some of them entered the professions; some were farmers or mechanics; and not a few were mariners. All were men of powerful physique, capable of great endurance, and possessed of remarkable vitality, without an exception transcending the scriptural limit of life by a half-score of years. His father, Clement Perkins, was engaged as sailor and officer on vessels trading with the West Indies, and was also the owner of several small fields of land in the neighborhood of his homestead, though such was the poverty of the soil that only by the use of seaweed and other fertilizers could it be made to yield a scanty crop. His mother, whose maiden name was Lucinda Fairfield, was a relative of Governor Fairfield, and also of Governor King, one of the earliest governors of Maine, after its segregation from Massachusetts.

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His two brothers are respected citizens of California at this date, one of whom served with gallantry in the civil war under Admiral Farragut. Of his two sisters, the younger, Caroline Amelia, still lives at the old homestead in Kennebunkport, and the elder, Ernestine, is the wife of Henry Maling, of the well-known firm of Byron Greenough and company, of Portland, Maine.

In early boyhood his training was very strict. Before and after school he was required to work on the farm, while the sabbath, with its treadmill of religious exactions, was the hardest day of the week. His tuition, three months out of the twelve, was of an elementary kind. The residue of the year he passed on the farm, where, from principle, the most rigid economy was practised by all. As a schoolboy, he cared more for sport than for books, being only an average scholar, and having no marked tastes for special studies. He had, from an early age, a passion for the sea, and as he grew, his thirst for a knowledge of mathematics, geography, and astronomy became so great that in these branches he excelled. To become the captain of a vessel was his ambition.

In his twelfth year he applied to the captain of the ship *Golden Eagle*, then about to sail for New Orleans, for the position of cabin-boy, but was refused, on account of his youth. Thereupon, he secreted himself in the hold, and after leaving port was accepted, and signed articles as one of the crew. The next four years of his life he passed at sea, making several voyages to Europe, and encountering perils and enduring hardships enough to satisfy even his craving for adventure.

On one occasion, while voyaging from St Johns to Dublin in the ship *Lizzie Thompson*, a mutiny broke out, the ship leaking dangerously. The commander, who had observed the young sailor's boldness and resolution, sought his advice. "Go for them with a belaying pin," was George's answer. The mutineers were quickly subdued; fatal bloodshed was avoided, and the

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ship returned to St Johns for repairs. On board of this vessel there were four young and untried apprentices, who, thoroughly demoralized by the recent mutiny and disaster to the ship, begged him to help them escape. Acting on the spur of a generous and sympathetic impulse, he got them into a boat, and, drifting down the tide, conveyed them safely on board an outgoing ship. Returning a few hours later, the captain inquired angrily what he had done with them. He frankly told him, adding: "I know I am in the wrong, but they haven't got the making of sailors in them, and I thought they'd better go home." Thirty-five years later one of these runaways, after serving in the war, and making his fortune in Colorado, called at the office of Governor Perkins to express his gratitude for the deliverance.

At Christiana, on one of his voyages, Perkins made up his mind that he would see the celebrated Swedish King Oscar. In company with a sailor lad by the name of Jack Branscomb, approaching the royal gardens, he was confronted with an impassable moat. But the boy had made up his mind, and would not be balked of his purpose. After careful search he discovered under the moat a narrow tunnel, the mouth of which was choked with rubbish. Into this he plunged, Branscomb following at his heels, and made his way to the opposite entrance. On emerging they were instantly surrounded by guards, who could not understand their explanation, yet attempted to conceal them; but the monarch with his retinue was approaching, one of whose party stepped forward and asked their business. Young Perkins, acting as spokesman, for his comrade was shaking as with an ague, boldly made answer that he had come to see his majesty, King Oscar I; they were from Boston, and when they returned home would be proud to tell their friends that they had been face to face with the king." "Well," said the other, in perfect English, "You have seen him; I am the king." At the same time he

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handed each of them several coins as souvenirs of their visit. In 1884, thirty years after this adventure, Branscomb turned up on the California coast, under the following circumstances: One day, while on board a pilot boat, bound for Monterey, in company with Commodore Allen and a party of friends, Gov. Perkins observed that one of the sailors was eying him intently. "Who is the governor; what state does he come from?" inquired this sailor from another of the crew. "From Maine;" was the reply. "I thought I knew him. You ask him if he ever met with a boy by the name of Jack Branscomb, who served on board the ship *Luna*." And Jack Branscomb it was—the same Jack, who thirty years before had trembled in the presence of royalty. It is almost unnecessary to state that Mr Perkins at once came forward and greeted him as an old comrade, and soon provided a place for him as boatswain on one of his ships.

During the voyage from St John's to Dublin and Liverpool, it happened that among his comrades was an old sailor, recently returned from California, and mainly through his persuasion, he determined to seek his fortune there. A few days after his arrival in San Francisco he took the steamer for Sacramento, whence he walked to Butte county, carrying on his back his tools, blankets, and gun, and for provisions, some crackers and bacon. In Butte, Plumas, Sierra, Tehama, and Lassen counties he worked for several months at placer mining, sleeping in cloth tents, under trees or ledges of rock, and living as best he could.

The proverbial sailor's luck deserted him, and in a temporary fit of despondency, he concluded to go to San Francisco and ship for Frazer river, the excitement regarding this point being at its height. After reaching the city, he determined that California contained good things enough to satisfy any man that had the nerve to wrestle for them, and that he would return to the point where he had first failed and make

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another trial. Being without means, he worked his passage on a steamboat to Sacramento and again walked from there to Oroville, or Ophir, as it was then termed. On his return he secured employment, driving a mule team, at which he was not expert, as the reader will imagine, but the will that caused him to retrace his steps, soon gave him the mastery over the avocation.

In the following year he obtained employment, in a store at Oroville, as porter. Now he considered himself fairly on the road to fortune. Building a small cabin, doing his own cooking, and practising the most rigid economy, he lived on one sixth of his income, and in a little more than two years, accumulated $800. With this sum, and $1,200 obtained on his note, he purchased a ferry at Long's bar, which he improved and shortly after sold at a profit of $1,000. Placing his money at interest he returned to the store at Oroville, now at a salary of $80 per month. Soon afterward he was promoted to a clerkship, and in less than three years, business being then at a low ebb, became the owner of the establishment. For the first month his sales amounted to $4,000; at the end of the first year they had increased to $15,000, and on the second to $25,000 a month. He then erected a flour mill, and through his strict attention to business, his liberality and fair dealing, gradually enlarged his operations, until his trade in produce, provisions, groceries, and general merchandise amounted to $500,000 a year. All this he had accomplished when little more than twenty years of age.

Until 1875, when he transferred to his brother the charge of his business, Mr Perkins made his headquarters at Oroville. Meanwhile, to his other interests were added sheep and cattle ranches. In mining and the lumber business he was also largely engaged; at Chico, in connection with N. D. Rideout and others, he established the bank of Butte county, of which he became a director

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During the flood of 1862 the fertile valleys between Oroville and Marysville, the latter being the base of supplies for the former, were overflowed and communication cut off. Provisions could not be had except by descending the Feather river, the only hope of relief. Perkins, having built a skiff, and accompanied by a single volunteer, who left him after two or three dangerous riffles had been passed, dropped down the stream to Marysville, noting carefully the dangerous obstructions in its channel. There he chartered a steamer, and, loading her with provisions, returned within a few days to the relief of the needy people. This was the largest steamboat that ever ascended the river as far as Oroville, only one small stern-wheeled steamer having made the trip before.

In 1872 Mr Perkins accepted a partnership in the firm of Goodall & Nelson, the firm being known as Goodall, Nelson & Perkins; they then incorporated as the Goodall, Nelson & Perkins Steamship company, and later incorporated the Pacific Coast Steamship company. At the date mentioned they had but two or three small steamboats in operation, running as far south as Monterey, and northward only to Tomales bay. To these, others were added from time to time, until in 1881 they had a fleet of twenty-one steamers, plying from Sitka on the north, to Mexico on the south, and to some thirty intermediate ports, several of them being vessels of from 1,200 to 1,500 tons. In that year the company disposed of its interests to Henry Villard and his associates, who had long competed with them for the carrying trade of the coast, receiving, however, a contract to manage the business for a term of seven years, which was later extended to twelve years. At the same time they secured the agency of the Oregon Railway and Navigation company, having then, also, the control of the Pacific Coast Steamship company. The Pacific Steam Whaling company, with Perkins as vice-president, and the Arctic Oil Works, of which he was presi-

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dent, were also organized by the members of this firm and their associates, and by them were built the first steam whalers constructed on the Pacific coast. These vessels were sheathed with imported iron-wood, which resists better than steel the shock of the ice-floes. Under the head of *Routes and Transportation* I treat at length the operations of Goodall, Perkins and company, as a subject belonging to that department. Mr Perkins is in his element in this great business and has been a large factor in building it up.

Among other enterprises with which he is connected may be mentioned the railroad from Cuffey's cove to the redwood timber lands of Mendocino county, in which he is largely interested. He is also president of the Pacific Coast railway—a railroad running through Santa Barbara and San Luis Obispo counties and terminating at Port Harford. He is a director and large owner in the corporation of Starr and company, who operate the largest flour-mills and warehouses on the Pacific coast. He is also a director and owner in the bank of Butte county in Chico, and the California State bank, located at Sacramento, and a director in the First National bank of San Francisco, one of the strongest financial institutions on the Pacific coast. He is also vice-president of the West Coast Land company, and, in conjunction with his partners, the owner of three-tenths of its estates in San Luis Obispo county.

He has been largely interested in quartz and gravel mines in almost every mining county in the state, and elsewhere on the coast, and especially in iron mines near Puget sound.

In 1860 Mr Perkins cast his first vote for Abraham Lincoln, and has always been a most ardent republican, though not a partisan in the extreme sense of the term. He was an abolitionist, and uncompromising in his loyalty to the government. His motto was, "The union first, last, and all the time," but he did

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not believe that the negro, until properly educated, should be given the ballot, which he looks upon as a sacred right that should be placed in the possession of the intelligent class only.

Soon after the outbreak of the rebellion the citizens of Oroville were about to celebrate the Fourth of July with more than usual patriotic spirit, and from the flagstaff in the court-house plaza the stars and stripes were to be unfurled. During the preceding night the halyards had been cut, presumably by some evil-minded secessionist. For a moment it seemed that the damage could not be repaired. A crowd had assembled, and were angrily discussing the outrage, when a young man stepped forward, and tying the halyards around his waist, climbed to the truck and rove them with his own hands. In an instant the nation's standard was floating in the breeze. The lad's name was Perkins.

In 1869 he was elected on the republican ticket to the state senate, for the senatorial district of Butte county, over George W. Colby, an able democrat, whose party was largely in the majority. And in further recognition of his usefulness and sterling qualities he was chosen, in 1873, to fill the unexpired term of Senator Boucher, deceased, for the senatorial district comprising Butte, Plumas and Lassen. He had made himself popular in the community by his public spirit, enterprise, and generosity. He seldom refused credit to his patrons, and never for provisions or necessaries; and very rarely did those whom he trusted take advantage of his liberality, for to impose on the "captain," as he was termed after his exploit during the flood of 1862, was considered the essence of meanness. In the senate Mr Perkins was known for his practical ability, industry, business-like methods, independent thinking, liberal ideas, and a conscientious ambition to be the actual servant of the people. As a member of the finance committee he presented a minority report, signed only by himself,

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favoring the passage of a bill framed to support the state university, which was afterward adopted by the senate, and an appropriation was made for the first time granting state aid to the university of California; for he believed the opportunity to acquire a higher education to be one of the greatest blessings within the gift of the state. On the committee on claims, of which he was appointed chairman by the democratic lieutenant-governor, Holden, this being the only appointment of a republican to such an office, on those on public lands, and on commerce and navigation he rendered important services, among which may be mentioned the bills, of which he was the author and brought forward and labored to have passed, relative to school and swamp lands; one granting aid to agricultural societies, and another conferring upon juries the power to determine whether the sentence for murder should be death or imprisonment for life, thereby saving the community from many a criminal whom a sympathetic jury could seldom get sufficient evidence to convict but for this alternative. He also was very successful in passing many local bills that immediately affected the interests of the counties he represented and were demanded by his constituents.

To him is also due in part the rejection of senate bill, No. 243; an act to empower the counties of Merced, Stanislaus, Fresno, Tulare, and Kern to aid in the construction of a railroad in said counties, by which it was proposed to give the San Joaquin Railroad company, really the Central Pacific company, every alternate section of land through which it was to be built. This measure, which would have deprived the state of a valuable portion of its domain, passed both branches of the legislature in the session of 1869–70. Governor Haight vetoed the bill, and Mr Perkins was the only republican senator who, considering the measure purely on its merits, felt confident as a business proposition the road would pay to build without state aid; he therefore believed it his duty to

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put aside all partisanship and voted to sustain the veto of the democratic executive.

In 1879 affairs were sadly out of joint in California. The epoch was perhaps the most serious in the history of the state. The new constitution had been adopted, and on the 1st of January 1880 became the organic law. Many of its provisions—especially those aimed against capital—were regarded by the conservative class as fraught with mischief. It hampered legislation; introduced a new and untried system of judiciary; made radical innovations in the revenue system; favored non-resident property holders; and declared vacant every office in the state, without justice or discrimination. It legislated too much; it was lacking in clearness and precision; all the benefits that it proposed to confer could be accomplished better by legislation.

In the fall of this year Mr Perkins received the republican nomination for governor. Opposed to him were Dr Hugh Glenn, the democratic nominee, and Mr White, the nominee of the workingmen's party. The democratic nominee was put forward as a man of the people; as one free from all sympathy or connection with monopoly, selected as the candidate for the new constitution party, and supported in his candidacy, with all its energy and tact, by the San Francisco *Chronicle*, a republican journal of great influence, and by the entire democratic press. Mr Perkins had been outspoken and uncompromising in his opposition to that instrument, while among the unthinking multitude his reputed wealth and connection with the steamship company and other large enterprises made it easy for his artful opponents to decry him as a monopolist and enemy of the people.

The odds against him were great, and he knew that if the election were to take place at once he would be defeated. The campaign was short—only sixty days. The emergency called forth the supreme effort of his life. Yet he preferred to lose the fight rather than

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strengthen himself by entering into any combinations, and he distinctly refused to make any promises of preferment, express or implied, that were conditional on his election. In the short time allotted he canvassed the state from San Diego to Siskiyou, often speaking two or three times a day in cities, towns, and villages, or at wayside houses. He was frequently greeted with ovations, though encountering everywhere a determined opposition from those who favored the new constitution, which, however, now that it had become the law of the land he declared should be recognized and upheld by all as such; and he pledged his honor that if he were elected he would carry out its provisions to the best of his ability.

By those who listened to Mr Perkins' speeches during this canvass it is related that he displayed a familiarity with the condition and wants of all classes of the people such as no man could possess whose life had not been interwoven with theirs.

One of themselves, and having risen to wealth and distinction among them, he was thoroughly at home on all topics in which they were interested. With quickness of perception and soundness of judgment he combined a thorough knowledge of character gained by contact and competition with his fellows. Though making no display of rhetoric, yet his views were expressed in clear, forcible language, spiced with a vein of good-humor, which softens animosity and inspires trust. His manner was always unequivocal and frank, and he impressed all who heard him with his integrity of purpose. Wherever he spoke new friends sprang up about him, and the old ones already knowing the man personally, or being familiar with his reputation, took off their coats and worked for him. His election to the governorship by a plurality of more than 20,000 over each of his opponents shows a brilliant triumph, unparalleled in the history of California politics. The result was a singular reversal of the vote on the new constitution, presenting the anomaly

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of electing a man to the chief magistracy of the state who would be called upon to execute the provisions of a political chart to which his convictions and principles were avowedly opposed; a capitalist, and at the head of a powerful corporation, chosen by the very people whose outcry was against capital and corporations. This phenomenon is not explained by any one cause alone, but the outcome was mainly due to the appreciation of Mr Perkins' character and worth. The compliment paid him by the people was magnificent, and without precedent. He proved himself worthy of it, however, for even his political adversaries acknowledge that he fulfilled his pledge regarding the new constitution faithfully.

Of the several wholesome measures inaugurated during his administration, and of the valuable recommendations contained in his inaugural address and messages, it is impossible here to make more than a passing mention. Not least among them was the plan proposed by him for utilizing the labor of convicts at the state prison, where, under the provisions of the new constitution, no further contracts for such labor could be made after the first of January 1882. For the movement of the crops there were needed annually from 25,000,000 to 30,000,000 grain bags, for the purchase of which, in Calcutta and elsewhere, more than $2,000,000 a year was sent out of the country. To prevent this drain upon our resources, and at the same time lessen the burden of taxation by reducing the expenses of the prison, and also to abolish the competition of convict with free labor, he recommended the introduction of a jute factory at the state penitentiary. When he entered upon his duties he was confronted with deficiency bills amounting to $218,000. These were shortly paid off, and at the close of his administration there were only $600,000 of outstanding bonds in private hands (the state holding balance in treasury for school purposes), and in the treasury $500,000 to redeem them. Many pub-

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lic buildings were erected; among them the normal schools at San Jose and Los Angeles, and additions made to the state university, the insane asylum at Stockton, and the institution for the care of the deaf and dumb, and the blind, and the state prisons at San Quentin and Folsom.

His appointments were in the spirit of civil service reform, with the happy result that no one of his appointees betrayed his trust. The pardoning power he exercised freely and yet with care.

A few weeks before the conclusion of his term a banquet was given to Governor Perkins in Sacramento, by the leading citizens of California, regardless of party, in token of "their appreciation of services to the state and people." Though not a formal gathering, and intended rather as a compliment to the man than a tribute to the official, the splendor of its appointments and the sincere expressions of esteem and good-will, from men of all political creeds, gave to this entertainment more than a passing significance. By N. Greene Curtis, who, though a strong democrat, was chosen to preside on this occasion, a cordial welcome was extended to the governor, to whom he afterward presented, on behalf of the citizens, a case containing eighty-four pieces of solid silver plate. That men of all parties should join to do him honor is stronger praise than any words of mine.

In 1886 Mr Perkins was a candidate for the United States senate, and received a handsome vote, though the ultimate choice fell upon Leland Stanford.

During his official career the governor delivered in various portions of the state many lectures for the benefit of churches and benevolent institutions. In the smaller towns people assembled from a distance of twenty-five miles to listen to his discourses on familiar topics.

Mr Perkins, while not a graduate of any college, has an education that entitles him to be classed as a

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fair representative of a government whose affairs have been largely shaped and controlled by self-taught and self-made men possessed of character and ability. He not only acquired information from books, for he has been a student in the midst of business, but he has his share of that wisdom which Bacon says exists outside of books and above them. With the cause of charity and of philanthropy he has for many years been identified. As president of the Boys' and Girls' Aid society, in San Francisco, he has been an enthusiastic and effective worker in retrieving young men and women from a life of crime and degredation toward which they had taken the first step. By himself and others the institution has been built up from the most meager beginnings to its present wide scope of usefulness. Since his connection with it homes have been found for more than eleven hundred neglected children, ninety per cent of whom have been permanently reformed. To many other benevolent associations, including the Ladies' Relief society, kindergarten schools, boards of Masonic relief, and the Old Ladies' home, he contributes money freely, and, what is more important, also his earnest and timely labor. His religion consists largely in doing good in this way.

While a resident of Oroville Mr Perkins became connected with the masonic order, filling most of the positions of the Blue lodge from junior deacon to master. Later he was elected to some of the highest offices in the grand lodge of free and accepted masons of California, and was also chosen most worshipful grand master of the grand lodge of California. During the great conclave of 1883 (when more than five thousand knights templar were gathered in San Francisco, coming from all the states and territories of the union), he was elected the grand commander of the grand commandery of knights templar of that order in California. He is also a member of the military order of the loyal legion of the United

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States, having been elected for valuable assistance rendered during the war, although he was not in the army.

Among other positions of trust which Mr Perkins has held it may be mentioned that from 1879 until his election as governor he was president of the San Francisco chamber of commerce, and in 1884 he was unanimously elected president of the Art association of San Francisco. Between 1876 and 1880 he was one of the trustees for the Napa asylum for the insane, being the only republican member of the board. He is also a trustee of the asylum at Berkeley for the deaf, dumb, and blind, a trustee of the state Mining bureau, and for many years a trustee of the Academy of Sciences of San Francisco. He is a life member of the Mechanic's institute, the Astronomical society of the Pacific, the state geographical society, the Young Men's Christian association, and of a number of literary societies and social clubs.

In 1864 Mr Perkins was married at Oroville to Miss Ruth A. Parker, a native of Cork, and the daughter of an English officer in the excise service. Of this lady it is not out of place to say that at home, a devotee to the duties of wife and mother, she has faithfully supplemented the life of her husband in her sphere. Of their seven children, the eldest son, now twenty-one years of age, graduated at St Matthew's college in San Mateo; and the second, a youth of sixteen, is a student of the high school at Oakland, and was appointed in 1889 to the naval academy at Annapolis, and successfully passed his examination, and was honorably admitted a cadet to the academy. The eldest of their daughters was recently married to Mr J. E. Adams, a member of a wholesale leather firm, San Francisco.

To most of my readers in California the personnel of the ex-governor is already familiar; his mild, clear, grayish-brown eyes, his dark brown hair, now threaded with silver, his broad, high forehead, and firmly

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clasped lips. Considerably above medium stature, very erect, five feet ten inches in height, he is of large, though not of bulky, frame, a compact, well-knit figure. His constitution, fortified by toil and exposure in early life on land and sea, is not perceptibly impaired. He is plain and unstudied in dress; in manner cordial and unaffected. His home in Oakland, where he has resided since retiring from political life, is one of comfort and elegance, though his habits are simple and temperate, and his personal wants few. He is a pleasant conversationalist, and as an after-dinner speaker he possesses a spice of good-humored irony that is very agreeable and all his own.

This is he who began to be his own guardian at twelve years of age or earlier, and has leaned upon no one since; who, landing on these shores friendless and almost penniless, in five or six years won a respectable place among the merchants of northern California. At thirty, senator; at forty, governor; while in both positions attending to large and complex personal affairs, he entered upon the latter office at a period when the community was distracted by the labor question, the Chinese question, the débris question, involving a controversy of extreme importance between the farmers and hydraulic miners of the state; and the perplexing issues connected with the new constitution. Fortunate was it that at this juncture the state had at its helm a man of his discretion and integrity; one who at a time when the old order of things having passed away the new could not be established until chaos had been overcome, possessed the strength and the tact to control the machinery of a government almost revolutionized.

He appears to me as a type of true Americanism, upright, charitable, bold, versatile, and laborious, a conservator and a benefactor. Conspicuous among the builders of this state and coast, he has contributed to California's progress by his talent and industry.

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CHAPTER VI.

POLITICAL HISTORY AND GOVERNMENT IN CALIFORNIA.

MISSION ESTABLISHMENTS—CALIFORNIA UNDER SPANISH AND MEXICAN RULE—ACQUISITION BY THE UNITED STATES—DISCOVERY OF GOLD—ORGANIZATION OF GOVERNMENT—ELECTIONS AND LEGISLATIVE PROCEEDINGS—THE JUDICIARY AND MILITARY—PARTY POLITICS AND THE PROGRESS OF AFFAIRS.

CONQUEST and occupation north of the ancient Aztec boundaries in Mexico declined with the waning of the Cortésian era of adventure. Treasure-hunting became unprofitable, the gilded cities of Cíbola proved a fleeting fancy, and even the pearls of Lower California eluded search, while the interoceanic passage retreated into ice-bound regions before the disappointed explorers.

Silver mines were gradually disclosed, however, and gave impulse to road-making and town-building along the coast, and to the establishment of lines of presidios for the protection of advancing settlements against roaming savages, who, unlike the gentler tribes to the southward, could not readily be made amenable to encomienda enslavement. So far the friars had followed in the path of the conquerors, or accompanied them as mediators. Now their services were invoked to prepare the way for subjugation, although they strove in the interests both of the church and themselves, to retain the control acquired at such risk, and to protect the natives against serfdom.

With the advance of missionaries into Sonora, interest in the opposite peninsula revived, and successful pearl-fishing was attended by several futile attempts

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to form settlements. The soil was too barren. But no obstacle could stand in the way of religious zeal. The Jesuits undertook the task, and aided by contributions from the pious, they gradually built up a line of missions parallel to the gulf of California. The attendant presidios protected the growth of a few farms and villages, and in due time the province attained the dignity of a government.

Thus passed two centuries without any northwestward extension of domain beyond the Jesuit establishments of Sonora and Lower California. Then came news of the Russian entry from the Asiatic side, arousing the jealousy of Spain, whose government became thereupon impressed with the need of a refitting station on the upper coast for the Manila galleon, together with the desirability of carrying the presidio line northward into the land of the encroaching Apaches. Coupled with this was the laudable service to God and Mammon in bringing the benighted heathen within church bondage, for the benefit of an endowed priesthood, and the pockets of prospective settlers.

The energetic visitador-general, Galvez, was accordingly charged to occupy Upper California, which he did in 1769, by means of a sea and land expedition from the peninsula, fitted out mainly from mission resources, the troops and friars being under the command of Governor Portolá and Father Junípero Serra. With this force was founded San Diego mission, protected by a guard under Rivera y Moncada, and soon after by a presidio. This first result was not attained without many troubles, notably from delayed supply vessels, and the prevalence of scurvy, which almost caused it to be abandoned. In the following year was established the chief station and future capital in the presidio of Monterey, enclosed at first within a parallelogram of adobe, with tile roofing, upon an outer stone foundation, divided into barrack rooms, family suites, warehouses, shops, corrals, and church. In time, with conversion and assured security, houses

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were built around it, forming a settlement, in which were domiciled natives, who from the first were impressed both for mission and barrack labor.

Between this station and San Diego rose several missions, five being in existence in 1772. By this time the Franciscans, who had undertaken the task, became so impressed with the fertility and prospects of the new field, that they hastened to secure its exclusive control by surrendering their Lower California foundations to the Dominicans. Nineteen friars were consequently obtained for Alta California, subject to the president at the head mission of San Cárlos, near Monterey. Nevertheless their labors were hampered by the scanty means at their disposal for planting new missions and raising sufficient crops at the existing establishments to attract and retain converts, for the souls of savages are to be found in their stomachs. Rude huts and outlying rancherías constituted for some time the chief abode of the fluctuating population. Another obstacle presented itself in the disorderly conduct of the guard, of from six to sixteen soldiers, over whom, however, the friars soon gained better control, persuading many to conciliate the natives by intermarriage. Progress was further checked by the jealous restrictions of the government in forbidding trade with foreigners, and by the regulations enforced as to the Manila galleons. Traffic must be confined to the government transports from San Blas, under the imposition of heavy percentages to cover expenses.

The civil and military authority was vested in Lieutenant Pedro Fages, commandant at Monterey and subordinate to the governor of the Californias at Loreto. His force, in 1773, consisted of sixty men, twenty-five of whom were Catalan volunteers, of his own company, the rest regular *soldados de cuera*, supplemented by a body of Indian laborers from the peninsula, a few servants and mechanics, besides the growing neophyte population under the friars. The

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supervision naturally devolving upon the military head in command of the mission guard, and through whom must be obtained the government orders, was galling to the padres, and gave rise to frequent disputes, which Fages embittered by a haughty and capricious attitude, and by meddling in mission affairs. President Serra went in person to Mexico to plead his cause, and succeeded in obtaining for the missionaries almost entire liberation from military interference, and the appointment in 1773 of a new ruler in the person of Captain Rivera y Moncada, a mild, irresolute, and incapable man. The force at his command was increased to eighty men, with a pay list of $39,000. A portion of this sum came from the pious fund, created by donation for missionary work in the Californias, and which yielded at this time nearly $21,000 a year, two thirds of it being absorbed by stipends.

Rivera failed to please his superiors, and after four years was transferred to the charge of the peninsula, the governor, Felipe de Neve, major of provincial cavalry, being sent to Monterey, which thus became the seat of government for both Californias. The greater importance of the upper country was further recognized by measures for enlarging occupation by founding a third presidio, at San Francisco, with a mission attached, and for aiding it by reënforcements, and by colonization. The first foundation in 1777 was the now prominent town of San José, which set a laudable example to the mission farms by undertaking the first irrigation work of any magnitude.

Neve was a man of marked ability, who only required opportunity to demonstrate it. He saw at a glance that the existing regulations were for a country so promising altogether defective, and he prepared a plan more suitable, of broader possibilities, which was adopted with slight modifications. Under it was included a fourth presidio at Santa Bárbara, a second pueblo at Los Angeles, an increase of missions to

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eleven, and of troops to two hundred, with four lieutenants, most of them to be retained at the presidios, the guard at the missions being reduced to about six men. The pay list was limited to $53,500, on account of the local food contributions and the abolition of extra rates for supplies from Mexico. Pueblo settlers were to receive an allowance of $116.50 for the first two years and $60 for the next three, in goods at cost prices, and also a lot and field, together with the loan of live stock, seed, and implements. In return they must be prepared with horse and arms for military emergencies, perform certain community labor, sell their products exclusively to the presidio, and not own more than about fifty head of any one kind of stock.

Notwithstanding these favorable conditions, commercial restrictions, missionary opposition, and innate indolence hampered progress. One cause, moreover, which inflicted a lasting wound on loyalty, appeared in the form of vagrant and convict settlers, with some of whom Branciforte was founded. The outcry obliged the government to change its policy in this respect. A worse influence was exercised by the labor of Indians which, as the Mexicans claimed, made work degrading. To the former, therefore, was left all field labor by the lazy and proud settlers, who in return demoralized and oppressed the natives, resorting even to kidnapping and other outrages. Thirty families only were introduced for the pueblos; but their offspring, and the accession of retired soldiers, married partly to Indians, raised the population of the three towns by 1800 to fully five hundred. At first the governor appointed comisionados to supervise affairs, but within a few years elections were permitted of alcaldes and regidores to join in the administration.

It had been hoped that the natives would develop under the guidance of the friars so as to permit the

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speedy transformation of the missions into pueblos; and to this end the authorities lent their aid by introducing artisans to teach them trades, and by causing the early election among the older communities of local officials for training in self-government. But the padres were naturally opposed to relinquishing their control of affairs. They availed themselves, therefore, of the natural indolence and stupidity of their wards to keep in pupilage and serfdom even the local officials, elected, indeed, at their direction. Their policy was to allow the guard or presidio troops to inspire fear by prompt chastisement of offenses, while they interposed as mediators and protectors. This policy of threatened vengeance on the one side, and paternal love on the other, sustained the ascendency of friar influence, and served to restrain disobedience and outbreaks, so that military operations were rarely called for, except against roaming marauders.

Under the regulation of 1781 it was proposed to complete a line of equi-distant missions along the coast, before planting a second interior line, and to try a system of conversion among the established villages of the Santa Bárbara channel, without forming mission communities, or giving temporary power to the friars; but to the latter scheme the ecclesiastics presented so obstinate though quiet a resistance that it was finally abandoned. Industrial training and control of food resources were essential to conversion and reform, they argued. With armies of serfs to herd cattle, till the soil, and build churches, the missions prospered, and the bishop, residing in Sonora, joined greedily with the temporal authorities in urging the commencement of secularization, but ecclesiastical diplomacy prevailed.

The able, patriotic, and dignified Governor Neve was promoted to the Provincias Internas in 1781, where he succeeded to the chief command, a position second only to that of the viceroy. Through the influence of his wife's family, Colonel Fages was now

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restored to California, with feelings toward the padres softened by a benevolent piety, yet not altogether able to avoid their displeasure at his honest devotion to duty. He therefore resigned, and was followed in 1791 by Lieutenant-colonel J. A. Romeu, who had served under him, and who possessed especial qualifications for financial affairs, so rare among California officers. Unfortunately, he fell ill, and died within a year. He was succeeded, after an interim administration under the complacent favorite of the friars, Captain Arrillaga, by Colonel D. de Borica, adjutant-inspector of presidios in Chihuahua, a kind and jovial man, endowed with tact and practical good sense. His absence, in 1800, brought back Arrillaga to the helm during the troublous period of the Mexican revolutionary war. In 1804 the peninsula was released from the condition of an appendage to upper California, owing to distance and the inconvenience of transmitting reports by the circuitous route of Monterey.

California was not deemed important enough to be directly affected by the foreign or civil wars of Spain, but indirectly she suffered many ills. She was compelled to submit to demands for contributions toward the war fund, and many a false alarm kept her in suspense, attended by elaborate defence measures, such as strengthening the feeble fortifications, and the organization of a militia in 1806. The intrusion of English traders on the northwest coast led to the Nootka squabble in 1788–90, which opened the door to the United States, and brought forward the gradual limitation of Spanish sway to the south of latitude 42°.

The Russians were similarly restricted to the north of 54° 40′, yet with an appreciation of the fur resources southward, which to them were the all-important inducement, they visited California in their search for other hunting grounds, and thus becoming acquainted with her agricultural wealth, perceived the advantage of procuring their staple provisions at

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a market so much nearer and cheaper than those hitherto patronized. The preoccupation of Spain in European wars had led to a neglect of California's interests, and to a reduction of her garrisons, so that it was not difficult to persuade the governor to permit an infringement of the stringent laws against foreign trade. This arranged, it became convenient for the Russian-American company to establish a station in proximity to the bay, Bodega being selected as the site in 1809; and here they sustained themselves in face of all protests, relying on Spanish weakness, and subsequently on Mexican preoccupation in civil wars. Some, indeed, attempted to lay claim to territorial ownership by virtue of this long occupation, but the tzar felt no inclination to burden himself with so remote and isolated a region, and thus in 1841 the Russians abandoned a post which had become unprofitable. Their suspected design had meanwhile led to the foundation on the north side of the bay of two missions and a fort, to uphold the Spanish title, and expeditions had been sent to explore the interior valleys, up the Sacramento and to Trinity river.

The effect of the Mexican revolution against Spain was first observed in preliminary political concessions by the mother country, such as representation in the córtes, of which no use was made by California. Then came the stoppage of money and supplies for the garrisons, a hardship affecting all classes. The settlers, and especially the missions, were called upon to furnish provisions against treasury orders which were never paid, and forbidden to accept the tempting offers of traders hovering about the coast. The padres lost their stipends, but none suffered as did the soldiers, who were confined to garrison duty upon scanty rations and in tattered uniform, forbidden to complain or to retire to country life. Under such privations the restrictions against foreign intercourse could not be maintained. Friars and colonists hastened to exchange their surplus grain, and particularly

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hides and tallow, for the hardware, dry goods, and fancy articles of the trading vessels, now increasing in numbers. Even officials openly engaged in the traffic with their own or the presidial property, or such as could be obtained by forced levies upon the missions.

These irregularities, together with the Russian encroachment, induced the viceregal government, during an interval of success against the insurgents, to furnish a few supplies, and to install, in 1815, a more capable governor at Monterey in the person of Lieutenant-colonel P. V. de Sola, lately habilitado-general for the province. The rule of the devout and popular Arrillaga, who died in 1814, had been somewhat too apathetic to please his superiors, and his lieutenant, J. Argüello, who succeeded him, was transferred to the peninsula, partly on account of his wrongly suspected disloyalty.

Sola took prompt measures to carry out his orders for restricting traffic, but the pressing wants of the troops, and the resolute though passive resistance of the inhabitants compelled him to yield. Rather than countenance the loss of revenue by smuggling he permitted trade, subject to an import and export duty, which did much toward covering military expenses. An additional sum was obtained by forced requisitions upon the missions and settlements. The removal of commercial restrictions gave an impulse to stock-raising and farming, and opened an era of prosperity, despite the pressure of a heavy presidio establishment, wherein was vested all authority, even over local communities; for the friars, as well as the honorary village officials, could do little or nothing without gubernatorial sanction. On the other hand, this intercourse, with its free interchange of commodities, served to blight the industrial revival inaugurated by Borica. Immigration from Mexico ceased, and with it the influx of desirable artisans. The incipient enterprise among the mission Indians also disappeared,

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or was diverted into channels promising more immediate and tangible results.

The revolutionary period, however, did not pass without disturbing for a time California's tranquility. Privateers were creeping along the Spanish-American coasts, and their presence, indeed, had much to do with the absence of supply vessels. The rumors of wealth circulated by trafficking missionaries failed not to reach the ears of this fraternity, and in November 1818 two vessels under H. Bouchard came to gather spoils. Warned by reports from the Hawaiian islands, steps had been taken for defence, and for hiding or carrying into the interior all portable goods, so that the marauders were not only disappointed in their expectation of booty, but on entering Monterey for supplies were severely handled by the batteries. The enraged Bouchard thereupon revenged himself by capturing the town and giving it up to pillage, together with some other points to the southward.

The worst effects of this raid came in the form of reinforcements from Mexico, consisting of disorderly troops, which swelled the garrisons from about four hundred to seven hundred men, and imposed an additional burden upon the people; for no supplies accompanied the influx, and only a trifling instalment upon the heavy debt now due from the royal treasury could be obtained. Meanwhile continued alarms kept the militia and Indian contingents constantly under arms.

To the missions was due for provisions nearly half a million of dollars, not counting the long arrears of stipends and goods. The consequent discontent of the friars, notwithstanding their prosperity, was increased by a change in the management, which brought them more directly under control of the order in Spain, and demanded a closer observance of the rules for humility and poverty, to the discarding of carriages, watches, and other luxuries, corrupting alike to themselves and to their flock. The reform seemed the more severe after a long period of indul-

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gence, and in addition came a secularization decree from the córtes. The padres professed themselves ready to obey, but were fully aware that the bishop had no priests to take their place.

The proposed innovations under the new liberal constitution forced from Spain were supplanted by decisive measures from Mexico. Iturbide, the leading royalist general, had in 1821 passed over to the insurgents, and declared for a revival of the ancient Mexican empire under a Spanish prince. The hesitation of the king to concede autonomy for its principal American colony opened the way for the general's ambition; and sustained by his devoted troops, he proclaimed himself emperor, under the title of Agustin I.

Tired of Spain's continued neglect, the Californians had promptly recognized the change, and affirmed it by selecting Governor Sola as deputy to the imperial parliament. Mexico had not expected such readiness in a province regarded as a mission field, and consequently under the control of loyal Spanish friars. Canon Fernandez, a jovial demagogue, was therefore dispatched to win over the people, and report upon their attitude and resources. He permitted the recent electoral body to constitute itself an assembly, and the leading towns to choose a more formal and complete local government than had before existed. In addition to this flattering concession he granted the assembly the privilege of appointing Captain L. Argüello, a Californian, to succeed the departing deputy Sola as governor. The selection was naturally distasteful to the influential Spanish minority, which thus far had controlled affairs, but nevertheless it was deemed politic.

The revulsion among both classes favored the inauguration of republican rule in 1823. In Mexico the long revolutionary war had fostered the democratic ideas implanted by the example of the United States and of France, and given birth to a numerous brood

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of aspirants for spoils and power. The arbitrary mismanagement of Iturbide gained for them the needful sympathy with the masses; and so was overthrown the empire, and the republic proclaimed, which during the next half century was to become the theatre of civil strife.

California was made a territory under a jefe-político, whose authority was curtailed only in military matters, now chiefly delegated to a special comandante, with forces reduced to less than four hundred men. The assembly continued to figure as a diputacion with seven members, half of them elected annually; yet it acted merely at irregular intervals and as a gubernatorial council, in minor economic matters, rather than as a law-making body. The representative to congress had no vote, and for several years not even a seat or voice. The comisionados at the pueblos lost their authority, and the election of alcaldes, regidores, and attached officials, although controlled by a few leading men, excited much interest. With these rested the administration of justice, for no competent judges were appointed during the first decade. A legal adviser was in due time provided for the governor, and the federal authorities took care to appoint the necessary treasury and custom-house officials.

The wise and liberal rule of Argüello was in 1825 replaced by that of a Mexican governor, Lieutenant-colonel J. M. Echeandía, who assumed the military command, and for his health's sake selected San Diego as his residence. He lacked energy and resolution, and displayed an inefficiency in the administration of justice and the enforcement of discipline which provoked much hostility. As a republican he favored secularization, and came quickly in antagonism with the friars, who refused to acknowledge the federal constitution. The diputacion would gladly have joined in despoiling them, but the governor ab-

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stained from so radical a measure, partly through fear lest the missionaries should retire, and by withdrawing their control over the Indians prompt the latter to renew the outbreaks of the preceding year, when three missions rose against the troops, and but for the interference of the friars others would probably have joined, and rendered the incident more serious.

The general feeling was further excited by the revival of convict immigration; by the decree of expulsion against the Spaniards, although not enforced in California; by the subordinate position assigned by the governor to the assembly; by the contemptuous treatment of the congressional deputy, and by the indifference of the federal authorities toward the province, which was left to its own resources in meeting the annual expenditure estimated at about $130,000. The actual revenue reached only half that amount, even under favorable circumstances.

The deficiencies in the revenue led also to defection among the troops, who, in 1827 broke out in mutiny. In the following year the contador instigated a revolt in favor of Californian officials, under the leadership of a convict named Solis, whose incapacity proved the main cause of failure. With such intriguing among the federal representatives, the interests of the government were further slighted through disregard of its laws and instructions; and not only was the revenue subjected to much dishonest manipulation, but smuggling met with official connivance, being encouraged also by the capricious opening and closing of ports, and by the arrangement under which foreign vessels could, after a first call at Monterey, peddle their cargoes from point to point with little or no supervision.

The missions remained as before a prey to officeholders, subject to all manner of arbitrary levies, exactions, and loans, without pretence of repayment. Secularization was partially introduced as a means to

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this end, finding many advocates even among the neophytes, whom the friars had purposely left in utter ignorance. In 1830 the supreme authorities were beguiled by politicians into passing a secularization decree for the province, to be carried out by J. M. Padrés. Eager for his share in the prospective spoils, the governor hastened to anticipate the measure by a similar plan of his own.

Alarmed, meanwhile, by the discontent and irregularities in California, the federal government appointed a new governor in the person of Lieutenant-colonel M. Victoria, a brave and honest man, and long commandant in the peninsula, but somewhat of a martinet. He arrived in 1831, and promptly put a stop to the projected raid upon the mission property, refusing to convene the assembly which had declared in favor of it. A strict disciplinarian, he prepared to suppress the lawlessness which had now become rampant, and did not hesitate to arraign even alcaldes before courts-martial. Foiled in their aspirations for plunder, the Californians chose to regard his salutary measures as an outrage, doubly oppressive as emanating from the unwelcome agent of a remote, indifferent, and even tyrannical authority. Some of the officials whom he had exiled availed themselves of the ill-feeling to return and kindle a revolt, which was aided by the late governor, Echeandía. The disaffected troops of course participated, and Victoria was easily defeated and driven from the country.

The assembly now sought to assert itself by choosing a ruler, but Echeandía objected. The result was that the northern districts seceded from the compact made with him, and appealed to Mexico. The administration then in power happened to have at its disposal a man of tact and ability, the brigadier José Figueroa, one too prominent, indeed, for so remote a post, but whom it was desired to remove. Arriving in California with discretionary power to promote the interests of the country, in secularization, trade, and

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general development, he applied himself so earnestly to the task as to harmonize all the opposing elements and produce an era of hitherto unparalleled prosperity, outside of the missions. He organized local councils at several of the settlements, pushed forward occupation to the north side of the bay, freely distributed grants for the extension of agriculture, released the people from the payment of tithes, and against his own interest, advocated the separation of the military and civil commands.

In connection with the Mexican decree of secularization a plan was framed for establishing colonies, for which purpose the property of the missions was to be used in providing seed, implements, livestock, and provisions sufficient for the first year. Two hundred and fifty persons were induced by this opportunity, combined with the offer of land-grants, to remove to the territory in 1834, under care of Padrés and Híjar, who had been appointed military and civil successors to Figueroa. Their appointments being countermanded, however, the governor considered that he had the power to interpose and save the missions and neophytes from the depredations of the incoming strangers, greatly to the delight of the Californians, who regarded the prey as purely their own. Sufficient aid was granted to keep the immigrants from starvation until they could settle or find occupation, though a few, who appeared to be conspiring, were sent out of the country in company with their two leaders.

Shortly afterward Figueroa died, his name being remembered as that of one of the benefactors of California, and as the best governor who had ever directed the affairs of the province. He had begun secularization, not on a general and ruinous plan, but by gradual emancipation at the most advanced missions. The friars responded by showing a total disregard for the estates intrusted to them and for their neophytes, hastening to secure a portion of the spoils

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by slaughtering cattle and selling the hides. The Californians joined in the scramble, and became so impressed with the benefits of self rule that the new governor, Colonel M. Chico, encountered from the first a current of unpopularity which he wanted the tact or ability to overcome; even the troops and friars took part against him, and within a few months he was forced to retire.

The people were unanimously in favor of state government under their own officials, since the supreme authorities persisted in not only neglecting them, but imposing obnoxious burdens in the shape of haughty representatives and disorderly troops to eat up their substance. This feeling had been greatly stimulated by foreigners, who had of late begun to arrive in considerable numbers, encouraged by offers of land and the prospect of intermarriage with the best families.

The leading spirit in the movement was J. B. Alvarado, president of the assembly, an ardent young Californian, popular with all classes, of much practical ability and shrewdness, and a man of progressive ideas. Flattered by their successes against Victoria and Chico, his supporters resolved to be rid also of N. Gutierrez, who, after the governor's departure, had assumed charge for the new central administration of Mexico. Centralism implied a still greater degree of hateful subordination, and they determined to resist it. Aided by foreigners they soon compelled him, together with several score of Mexicans, to follow his predecessor, and leave the command to José Castro, then president of the assembly. The foreign element advocated independence, in imitation of Texas; but the fear of its ascendency restrained the more conservative of the community; nevertheless California was proclaimed a state, and the assembly raised to the dignity of a congress. Alvarado was named governor, and for commandant at Sonoma, M. G. Vallejo, the richest and most influential man in the north, who, while not

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participating very actively in the revolution, nevertheless held the balance of power in the state. The militia was reorganized, and several reforms instituted, particularly in the finance department.

Juan Bautista Alvarado was born at Monterey February 14, 1809, the son of a sergeant who died during the same year. Observant and quick to learn, he made the most of the few books and the rudimentary education to be obtained in an isolated frontier province. Association with foreigners assisted to enlarge his information, sharpen his wits, and instil a practical energy which was rare among his countrymen. An early training in the office of Governor Sola, and as clerk to traders, enabled him to enter upon his public career in the eighteenth year as secretary to the provincial assembly. In 1834 he exchanged this position for an inspectorship in the custom-house. At the same time he availed himself of the popularity acquired in his official capacity, and as a genial, affable man of recognized talent and good character, to gain a seat in the diputacion. The absence of the eldest vocal placed him second on the list to the president, and gave weight to his plans against Gutierrez, and his position as leader among the younger Californians and also of the revolution procured for him the governorship, the highest possible honor within the province. After a rule of six years he retired, with the rank of colonel in the Mexican army. As a reward for joining two years later in the revolution which ousted his Mexican successor, he was intrusted by the new provincial governor, Pico, with the management of the Monterey custom-house. Although elected representative to the congress at Mexico, he did not attend its sessions, nor did he pay much attention to his appointment from that quarter as adjutant inspector of the California presidio companies. During the American invasion he remained, indeed, almost inactive, under parole, and subsequently lived

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in retirement, chiefly on the estate of San Pablo, inherited by his wife, Martina Castro, by whom he had several children. Although forced by circumstances to have recourse to intrigue, to waste his efforts and the public property in political struggles and campaigns, and to countenance many impositions among subordinates, he was personally animated by patriotic and honest motives, which lifted him above sordid considerations, and were strongly reflected in his career.

Mariano Guadalupe Vallejo was the son of a sergeant in the California presidio service, who by virtue of his pure Spanish blood and family name enjoyed the title of don and distinguido. This position procured for the son admission into the Monterey company as cadet in 1823, in his fifteenth year. The aspirations imbibed from a proud though less cultured father had endeared to him the military profession, and prompted him to prepare for the position by supplementing the scanty education obtainable in his native town of Monterey with the study of all the books within his reach. After four years of training he was promoted to alférez of the San Francisco company, yet acted as habilitado and comandante of both companies, sharing in their campaigns against Indians. Elected a member of the diputacion in 1830, he took an active part in opposition to Victoria, and was in 1834 rewarded with the election of diputado suplente to the congress at Mexico, although not called upon to sit.

A favorite of Governor Figueroa, he received from him a large grant north of the bay of San Francisco, the commission to secularize the mission of Solano, and to found the military post of Sonoma, and there to act as director of colonization, and as comandante of the northern frontier, with the military rank of lieutenant. Bound to this new field by public and private interests, he strove energetically to promote its settlement and unfolding, and so successfully that by 1836 he had become in many respects the most powerful

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man in the province, and certainly the most independent.

The mere weight of his name was sufficient to make him courted by and indispensable to the new California party, and the position of comandante-general was conceded to his passive influence rather than to his services or popularity. He prudently abstained from injuring his prestige by too familiar intercourse or by meddling in southern affairs, and his reserved and somewhat haughty demeanor, inspired by family name and wealth no less than by military training and official rank, tended to make him more respected than liked. As a mere lieutenancy did not well accord with his new position of general, he was created a colonel of cavalry by the California authorities, and Mexico responded in a measure by advancing him, in 1838, to the rank of captain of the company and colonel of defensores, while recognizing his position as comandante militar. This latter jurisdiction was confirmed under the succeeding Mexican governor, together with the rank of lieutenant-colonel, and an additional land grant.

In return for his favorable attitude toward the United States and their immigrants, he was allowed a proportion of his claims for losses during the invasion, and given a commission as colonel, with the appointments of Indian agent and legislative councillor, besides being elected to the constitutional convention and first state senate. His grants of land were only partially confirmed, but nevertheless they formed a magnificent domain, the value of which he sought to increase by promoting the foundation of Benicia and Vallejo, the former being named in honor of his wife. The effort to make the latter the permanent capital of the state proved a disastrous failure; yet the selection of the site for a commercial centre was judicious, and its growth has endorsed the judgment of its founder.

The general henceforth lived in modest retirement at Sonoma, where he directed the education of the

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thirteen children born to him by Francisca Benicia, daughter of Joaquin Carrillo, whom he married in 1832. He still appeared occasionally in public life, as the foremost representative of Spanish-Californians. Intercourse with strangers, and diminished wealth and power, had tended to soften the former pride and exclusiveness, and though still retaining a marked formality of manner and speech, he ranked as the chosen favorite among his countrymen, and was generally esteemed also by Americans for his high sense of honor, his generosity and refinement, and his unsullied public record.

The revolution had transferred nearly all political advantage to the northern districts. At this the long-favored south took umbrage; and finding no disposition to make Los Angeles the seat of government, proclaimed there the local council as the supreme authority, reporting in the meantime to Mexico that the north was yielding to foreign designs. Both sides took to arms. In the midst of the conflict an emissary arrived from Mexico, and appealed to Alvarado, as the most powerful leader, persuading him to accept centralism as the price of confirmation for himself and Vallejo. Before the agent returned to Mexico the government had been prevailed upon by the California deputy to appoint as governor C. Carrillo, a southerner, who was promptly installed by his district. Still hoping for his own confirmation, Alvarado held his ground, confident that the party in power would be recognized by the distracted administration in Mexico. The south fully understood the danger of delay, and once more took the field. Alvarado gained sufficient advantage at first to cajole the vacillating Carrillo into inaction, and as he had anticipated, was confirmed in office, the latter being appeased with a large land grant, and the emissary rewarded with a seat in congress.

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The civil war gave the finishing blow to the missions. It favored the absorption of their property under the additional guise of labor loans. The administration of this property was mainly in the hands of partisans, without due supervision, who took their share from the forced contributions, and loaned or transferred live-stock and implements, and even the Indians, to friendly rancheros, leaving the friars and neophytes to shift as best they could. The government at Mexico dissipated in like manner the pious fund, which had so largely served to sustain the missions in colonial days; so that, when in 1839 a bishop was appointed for California, with the power to administer the fund, it had virtually disappeared. Nor could the prelate obtain his salary; and as tithes were abolished, he had to subsist on scanty contributions. In 1843 many of the missions were restored to the friars, but by this time they were so impoverished, and the neophytes so dispersed, that only a few of them presented even a feeble prospect for their revival.

In Alvarado's disposition was the making of an excellent governor; but party strife caused him gradually to abandon the management of affairs to others, who absorbed most of the funds for the civil departments. At this Vallejo was annoyed; and alarmed, moreover, at the growing machinations of foreigners, he urged the government to appoint a new ruler, sustained by sufficient troops to defend the department.

The administration recognized the danger, and was only too glad to have the country in charge of its own agents. Being more free at the time in its operations, it was able to spare over three hundred men, who were placed under the command of General Micheltorena, as governor and comandante-general, with extraordinary power to appoint officials, reörganize the presidio garrisons, and take other necessary steps for the defence and welfare of the country. One of his first measures was auspicious, reducing civil expenses

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by nearly $40,000; and he arrived in 1842, just in time to save the department, as he claimed, from foreign hands.

In 1840 suspicions against foreigners had risen to such a pitch that over a hundred were arrested, and some of them sent to Mexico for trial. No guilt was proven, and several returned to exact compensation. New arrivals of different nationalities continued nevertheless to be welcomed, and to receive grants, a large number collecting on the river Sacramento, round the fort founded in 1839 by Sutter. The majority were immigrants from the United States, who freely expressed the conviction that the province must ere long be annexed by their people. The cabinet at Washington had in fact made an offer for it in the early thirties, and after the Texan question embroiled the two republics, the southern slave-holding states resolved to strengthen their position in the union by means of territorial extension. The squadron in the Pacific had orders to keep watch over the coast, and in case of war, or of English attempts to gain a foothold, as suspected, possession for the United States should be taken. Thus it happened that in 1842 Commodore Jones hastened to occupy Monterey in the belief that war had been declared. Finding from a newspaper, which was shown to him there, that he had been mistaken, the fort was promptly restored, with an apology, Micheltorena assuming for his own glory that the enemy had been frightened away by his approach. The supreme government now forbade the entry of Americans; but the local authorities considered the interdiction hopeless, and disregarded it, the governor himself freely selling and granting lands to them.

Micheltorena did not justify the expectation formed in regard to him. He soon lapsed into careless indolence, which won a certain popularity, although not enough to overcome the ridicule provoked by his bluster in the Jones affair, nor to condone for the

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lawless acts of his soldiers, composed mostly of vagrants and convicts, and driven by want to plunder the settlers. Less than two years of this imposition sufficed to revive the dislike for Mexican officials, and the love for self-rule, together with the handling of revenue. The first revolt was allayed with the promise that the obnoxious troops should be sent away. This was but a subterfuge to gain time for seeking reënforcements in Mexico, and among the foreigners so widely favored by Micheltorena. The Californians rallied once more, at the call of the assembly, which impeached the general, and proclaimed governor their senior member, Pio Pico. The foreigners were persuaded to withdraw, and thus bereft of his main prop, Micheltorena yielded, and departed with most of his men, a rather sorry figure.

The Texan imbroglio left the Mexican government no alternative save to approve, and as success had been achieved this time by the south, Los Angeles rose again as the capital; but Monterey remained the military and financial centre, and José Castro, the comandante-general, conspired with Alvarado and others to secure for his department the greater share of the revenue, which for 1845 reached the sum of $140,000 from the custom-house alone. Thus wrangling was renewed between the two sections, to the detriment of many projected reforms, and with the prospect of another civil war.

The difference arising between the United States and Mexico on account of the attitude of the former toward Texas manifested itself in California, as a border province, by precautionary measures against foreigners in general, and by orders from the home authorities for the exclusion of further immigrants from the United States in particular. This was not easy to accomplish, however, and, indeed, was not attempted, favored as these intruders were by a vast unprotected frontier, and by a large number of coun-

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trymen domiciled here and connected by marriage and pecuniary interests with native Americans. Internal dissensions and a provincial party-spirit, sustained by so many grievances against Mexico, likewise exercised an influence in checking a too decided opposition against a change. In addition to all this came secret support from the government at Washington, whose long meditated designs on the Pacific coast received incentive from the rumor of similar intentions on the part of France and England. The Mexican bondholders in the latter country were at least seeking territorial indemnity, and British subjects were planning enterprises, to be planted on Mexican soil.

The Monroe and manifest destiny doctrines would have sufficed to rouse the attention of the northern republic; but party schemes gave it additional motives to prompt action. Thomas O. Larkin, of Massachusetts, who, since his arrival at Monterey in 1832 in his thirtieth year, had acquired influence as a general trader, and been appointed consul for his government in 1843, was two years later commissioned secret and confidential agent of the administration at Washington, with instructions to create a favorable feeling toward the United States, and impress the advantages of a union with that country; to counteract English sympathies, and to keep his government fully informed concerning the turn of affaias. Larkin devoted himself to the charge with tact and zeal, although thwarted somewhat by the indiscretion and ambition of his later associates.

Their several successful revolutions, the separation of Texas and the dissensions and weakness of Mexico, had impressed upon Californians the possibility of a speedy change, to which attendant rise in land values, expanding trade, and wider prosperity lent attractions. Loyalty was weak, and independence tempting; but the difficulty of maintaining autonomy was apparent, and inclined the more perspicacious

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either toward annexation, or in suspicious defiance to cling to Mexico, while a few favored European intervention as the best middle course. Alvarado preferred the latter, and Governor Pico upheld an English protectorate as most promising to his aspirations for title, office, and wealth, while General Vallejo favored the strong arm of the United States. At one time, indeed, it was proposed to consider the question in a general council, which did not take effect, however.

The growing party was for annexation, and embraced a large proportion of the independents and the wealthy, together with the preponderating and fast increasing number of immigrants. It was fostered by Larkin's efforts, by the apathy of the people, by love of independence, and by the prospect that European armed interference would afford but a temporary remedy, as the United States would never permit permanent occupation from that quarter.

It needed only a spark to ignite the combustible material, and that was applied by Frémont, a lieutenant of topographical engineers, born in Georgia in 1813, who had been, by virtue of his position as son-in-law to Senator Benton, entrusted with the survey exploring expeditions to the Pacific coast in 1842–5, which brought him into prominence as a so-called pathfinder. The name was bestowed by his admiring friends, for he himself claimed only to have scientifically explored ground trodden before, and to have given official information concerning it, the first important step in the great transcontinental surveys.

His third expedition, the second into California, occurred during the troubled spring of 1846. In view of the designs on the country, he had received instructions to examine more widely and minutely into its resources and affairs. The provincial authorities of California permitted him to halt and recruit his party for the proposed march to Oregon. He abused the privilege by penetrating into the heart of the province, close to the bay of Monterey, with his

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armed force of 60 men. When ordered away by the alarmed officials, he most foolishly and unjustifiably aggravated the fault by intrenching himself at Gavilan peak on March 6th, and hoisting his flag. General Castro promptly gathered 200 men with a view to enforce the order. This brought Frémont to his senses. He recognized that a collision might compromise both himself and his government, and was at least premature. Swallowing his chagrin, he slunk away by night, and abandoned his camp to the exultant Castro.

Frémont had blunderingly anticipated the wishes of his principals. On the way to Oregon, now resumed, he was overtaken by Lieutenant Gillespie, a secret messenger from Washington, with instructions that, in the event of war with Mexico, he and Larkin should take possession of California, and prevent any occupation by a European power, and conciliate the people so as to facilitate such seizure, or win them over for voluntary annexation, should no war occur.

Frémont welcomed the message as a carte-blanche for any liberties he might see fit to take, in view of a seemingly inevitable war. He longed to initiate so important an enterprise, perhaps to become the leader in an independent state, and to fling back the taunts cast upon his somewhat ignoble retreat. To this end he counted not only on his three score followers, but on the imposing number of adventurers and immigrants from the states, who, inspired by Texan precepts, by the comparatively defenceless condition of the province, and the long-nursed doctrines of the rights of the strongest, had been agitating the expediency of adopting the course opened by the lone-star republic. Numbers were attracted not alone by the security, development, and prosperity foreshadowed by annexation to the United States, but by the excitement and gains of a campaign, the glory of figuring as liberators, and the honor and emoluments of office. They regarded themselves as strong

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enough to withstand a blow, and perceiving the approaching opportunity, looked about for an excuse to inflict it. The orders from Mexico, to expel unauthorized American settlers, although not enforced, were dragged forward as an impending outrage, to be aggravated, it was assumed, by turning loose the Indians upon them. The apparent ejection of Frémont, and the attendant armament and proclamations of Castro against foreigners, lent color to the fictitious alarm, and pointed at the same time to a leader.

A representative portion of the conspirators accordingly went to meet the explorer, whose plea of scanty supplies, mountain snows, and hostile Indians, as the reasons for his return, were regarded as purely a cloak for official intrigues. Not yet prepared to unmask, he nevertheless encouraged them to begin operations, promising to bring forward his men to oppose any Californian troops sent against them. This would shield his government, and leave him greater freedom to decide upon his course—to step in the wake of victory to success, or to escape under the guise of neutrality. The rôle assigned to the United States was not very dignified, but the prize was tempting and principles easy.

Regardless of the critical condition of affairs, the governor and comandante-general of the province kept up a quarrel for the supremacy and the control of the revenue. By virtue of his military force and the custody of the leading custom-house, Castro secured two-thirds of the fund, on the ground that the north must be guarded against the Americans. Pressed by his hungry supporters, Pico enrolled a force of 100 men, and set forth to correct his misguided lieutenant. Castro proved even more successful in his enlistment, by calling for defenders of the country, to be used against foreign or local foe, as circumstances might require. For their equipment he sent to Vallejo for 170 horses. This preparation was declared by the United States' conspirators to be a

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measure directed against them, and at Frémont's suggestion the band of horses was pursued and captured.

The first step thus taken, on June 10, 1846, hesitation vanished. Four days later a party, barely three dozen strong, pounced upon Sonoma, the only military post north of San Francisco bay, yet without garrison. They secured 200 muskets, nine cannon, and some horses, General Vallejo and his associates being sent as prisoners to Sutter's fort, of which Frémont took possession. The captors, under the temporary leadership of W. B. Ide, proclaimed the California republic, and hoisted a flag bearing the design of the Texan lone star and a grizzly bear, the United States' ægis not being as yet authorized. In the proclamation plausible reasons for revolt were duly advanced, regardless of truth, with promises of reform and protection, embracing freedom from imposts, involuntary taxation and military service. The levy of forced loans served to impress upon the passive population the prospective value of these utopian privileges. In answer to an appeal by the sufferers the captain of the United States' war vessel *Portsmouth* denied that the movement was authorized by his government, yet he sent supplies to Frémont.

Castro promptly issued a call to arms, but so slow was the response that his force increased to barely 160 men during the following ten days. One of its three divisions was sent north in advance to retake Sonoma, but after a skirmish with Ide's party, being unsupported by the remaining bodies, it retreated, and thereby so discouraged the entire command, that Castro fell back to Santa Clara, thence to urge on Pico the necessity for conciliation and coöperation. The latter took advantage of the emergency to gain followers to his standard with a view to obtain the control of the campaign, but with even less success than his rival, whom he thereupon joined with ill grace.

The first advance of Castro had spread no little

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alarm among the American settlers, particularly on observing the neutrality of the war vessel. They were losing confidence in Ide, and called therefore with double reason on Frémont to redeem his promise. The latter found himself bound to comply, and set forth on June 23d for Sonoma and San Rafael without meeting a foe. He now persuaded the commander of the United States war vessel *Moscow* to lend his aid in entering the presidio of San Francisco and spiking its ten guns. After celebrating the fourth of July the insurgents formally vested the command in Frémont. The independence of California was affirmed, but on reaching Sutter's fort on July 11th the filibuster captain learned that rumors of a declaration of war, together with his overt acts, had encouraged Commodore Sloat to hoist the United States flag at Monterey. This in turn prompted him to supplant in similar form the Bear flag, which he had sustained merely as a guise. Ide, who had sought to figure as another Houston, sank out of sight, and to Frémont was accorded the questionable glory of the movement. He certainly had asssisted to start the revolution, useless and unjustifiable though it was, and had stepped forward to give it fresh life and new direction under semi-official auspices, which gave color to Sloat's important intervention.

The Oregon question revealed the eagerness of the United States to extend her dominion to the Pacific shore. The desire for a symmetric outline which must include California, possessed as she was of the only good harbors south of Puget sound, was but natural. To this must be added the resolve on the part of the southern states to balance the growing power of the northern division. To this end war was forced upon Mexico, for which preparations had so long been made, partly by keeping a fleet in readiness in the Pacific, with standing orders to watch the

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movement of English war vessels, lest they forestall the Americans in occupying California, and to take possession here at the first news of war and reconcile the inhabitants to a union with the eastern states.

The reality of English pretensions in California is subject to grave doubts. The determined attitude of the Americans in the Oregon affair, and their well-known designs on the adjacent coast, must have cooled the ardor of the British to wedge themselves in among such an aggressive people, with the attendant risk of a conflict, or at least of trouble. Their admiral certainty exhibited no eagerness in the matter, and the scheme of McNamara to establish an Irish colony here appears to have emanated from speculators, connected perhaps with the vain efforts of British bondholders to secure territorial indemnity.

Before the arrival of the official notifications of war from Washington, Commodore Sloat received such reports of the outbreak of hostilities on the Texan border that he hastened to California with his fleet of four vessels. Here his resolution failed him, however, and several days were wasted in vacillating consultations. Frémont's energetic movements, particularly in spiking the guns at San Francisco, finally decided him, and on July 7, 1846, he landed at Monterey, seized the unprotected post, and hoisted the stars and stripes. Within the following few days the flag was likewise unfurled at San Francisco and Sonoma by Sloat's officers, and at Sutter's fort by Frémont, and soon after at San José, whence Castro had retreated on the 8th.

Frémont promptly continued his advance by turning from Sutter's fort to Santa Clara valley, with a battalion now swelled to 160 men by enlistment of the Bear insurgents. After entering San Juan, and thus completing the occupation of northern California, he proceeded to Monterey to confer with Sloat. The timid commodore had by this time begun to doubt

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whether the war news received by him was reliable, and feared that his instructions might have been overstepped. On learning that Frémont had acted on his own responsibility, he was horrified, and declared that his own act had been based entirely on those of the captain, an attempt to shirk responsibility, which redounded greatly to the credit of the latter.

Just then arrived Captain R. F. Stockton, an energetic, resolute man, next in rank to Sloat, who freely expressed the opinion that existing orders justified even wider action than had been taken. In feeble health, and in daily expectation of being relieved at his own request, Sloat was glad to surrender to the other the squadron, with the pending responsibility. As commander-in-chief also of the land forces, Stockton enrolled the ex-Bears as a battalion of volunteers, with Frémont as major and Gillespie as captain, and sent them to San Diego, thence to coöperate with him in completing the conquest.

Sloat had issued a proclamation declaring California incorporated with the United States, and her inhabitants in full enjoyment of all existing privileges, together with those of their new country, implying numerous reforms, lessened taxation, greater security, increased prosperity, and other blessings. This bold announcement, somewhat premature under the apparent nature of the war, and hardly in accord with Sloat's vacillation, might properly have been affirmed by the new commodore. But, on the contrary, he issued another proclamation, filled with bombast and false charges of outrages on Frémont and others, and of prevailing disorders, which required him to go in pursuit of marauders and to hold California until redress should be obtained. This was clearly instigated by Frémont, and intended to magnify Stockton's task, while shielding him in case no war should have broken out. The latter explained, moreover, to his government that prompt action was required to protect American immigrants against the Californians, and to prevent the

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lavish disposition of land and other public property by the governor.

Castro and Pico continued their retreat with gradually diminishing forces. A fresh appeal at Los Angeles for defence of fireside and freedom evoked little more than empty excuses in response to fear and pride. The people had lost confidence in their leaders and their troops, who were regarded as marauders; and they looked upon defence as hopeless against the existing odds. With barely a hundred unreliable followers left, Castro sought to gain time for consideration by proposing a truce to Stockton, who had landed at San Pedro to prepare for marching on the capital. He had also hopes of favorable terms from the invaders. The avowed policy of peaceful acquisition should have prompted the commodore to listen to overtures. He thirsted for fame, however, with all the ambition inherited from his long descended New Jersey family, and preferred to remove the existing authorities in order to obtain free sway. Nor were his reasons for the step altogether wrong; for negotiations would be tantamount to recognition of them and their acts, and give them other undesirable advantages, while any concessions on their part would be invalid without approval from Mexico. Neither Castro nor Pico regarded it as consistent with their honor as Mexican officials to tender the province to the enemy. Both, therefore, departed for the southern border, the former to end his days in the military service of his country in Lower California, while Pico soon returned to his large estates, and to the many friends whom he had enriched with large and occasionally ante-dated land grants.

After four days' drilling of his 360 sailors and marines, Stockton proceeded to Los Angeles, entering there on August 13th with Frémont, who had approached from San Diego with his battalion. A fresh proclamation, signed by the former as commander-in-chief and governor of California, declared the country

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a portion of the United States, to be governed for the present by military law, yet with local authorities, to be elected by the people on September 15th. A duty of fifteen per cent ad valorem was imposed on foreign goods.

Definite war news being now received, Stockton declared all Mexican ports south of San Diego under blockade, and prepared to depart with his squadron to enforce it, and perhaps, with the aid of enlistments in California, to fight his way through Mexico and join General Taylor. To this end he appointed Frémont military commander of the province, now divided into three departments, with orders to increase his battalion to three hundred men, and garrison the towns. Gillespie was left in charge of the southern district, centering in Los Angeles, Lieutenant Maddox of the central, stationed at Monterey, and Captain Montgomery of the northern, with headquarters at San Francisco. The commodore's dreams of naval operations were rudely interrupted, however.

The departure northward of the main force, leaving only small garrisons at Los Angeles and Santa Bárbara, and none at San Diego, had revived the somewhat depressed spirit of the southern Californians. The mutual recriminations on the score of the pusillanimous surrender to the invaders roused a certain braggardism, which, to say the least, was at Los Angeles ill-timed, and showed want of consideration on the part of Gillespie and his solders for opponents whom they had learned unduly to despise. The instigations of several paroled Mexican officers, and the boisterous impudence of a band of young revelers under S. Varela, fanned the smouldering patriotism, and 300 men took up arms. So imposing a force called for proper organization, and Captain J. M. Flores was chosen comandante-general, with J. A. Garrillo and Andrés Pico as second and third. Their inspiring idea was not exactly to defeat the invaders, but to uphold the national flag in sufficient

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strength to promote the restoration of the province to Mexico by treaty, as still unconquered.

Aglow with the capture of a foreign posse at Chimo Rancho, the Californians pressed so closely round Gillespie, who had weakened himself by sending a detachment to garrison San Diego, that he accepted their offer, at the close of September 1846, to return with honors of war to San Pedro, for embarkation. The still smaller body holding Santa Bárbara prudently escaped by night before the gathering revolutionists, and the one at San Diego withdrew to a whaler in the harbor, thence to watch the turn in affairs. Preparations were thereupon made for a guerilla warfare, M. Castro being commissioned to direct operations in the north, with headquarters at San Luis Obispo.

On learning of the revolt, Captain Mervine was sent to San Pedro with 350 men to join Gillespie in regaining the lost ground. No animals could be obtained either for mounting men or dragging cannon, so Mervine advanced on foot with small arms alone. The well-mounted Californians hovered round, harassing the force with impunity, and using with great effect a rapidly wheeled gun upon the solid ranks. After losing several men, Mervine perceived the futility of pursuing flying artillery and cavalry under such disadvantage, and accordingly turned back to his vessels. He did not know that the last volley of the jubilant Californians had exhausted their ammunition. Stockton arrived shortly afterward, and was likewise impressed with the difficulty of a march on Los Angeles against a foe, which by sundry strategies had greatly magnified their forces. One device was to display their men in a circuitous march between the hills in such a manner, that each man was counted several times. He therefore sailed onward with the entire command to San Diego, thence to seek the needed animals in Lower Califor-

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nia, and await the arrival overland of Frémont, who was equipping in the north.

The Californians exhibited corresponding energy. The assembly met on October 26th and elected Flores governor and general *ad interim*, declaring the province in a state of siege. In order to obtain funds it was proposed to annul Pico's hasty sales of mission property and hypothecate it. These and other measures for defence were partially neutralized by a revival of the petty jealousies which had so long embroiled the officials. Flores was a Mexican, and although doing his duty well and in good faith, the Californians preferred a leader from among themselves. Intrigue and demoralization ensued, based partly on Flores' indispensable levies for supplies. The conspirators actually ventured to arrest the general, but the assembly interposed and reinstated him. Similar discord threatened to befall their opponents.

Colonel S. W. Kearny had achieved the conquest of New Mexico during the summer of 1846 in so effective a manner as to be rewarded with the rank of brigadier-general, in which capacity he was instructed to hasten on to California, occupy it in coöperation with the naval forces, and organize a civil government. He promptly obeyed, but learning on the way from Stockton that possession of the province had been secured, he proceeded with only 120 dragoons and two guns. On December 5th he reached San Pasenal, not far from San Diego, whence Stockton had sent Gillespie with a party to bid him welcome. Andrés Pico was hovering round the place with eighty men, intent on cutting off Gillespie, and wholly unaware of any other force. On perceiving him the following day, Kearny's men gave chase, regardless of the fact that they were mounted on tired and badly broken animals and with firearms rendered useless by the night's rain. Pico's men at first retreated, but on beholding the straggling order and embarrassed position of the pursuers, they turned, and with their

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advantage as excellent horsemen, wielding weapons in unencumbered hands, fell like an avalanche on the dragoons. Kearny's rear coming up the cañon, they were forced to continue the retreat, leaving the field to the Americans. The blunder of the general had cost eighteen killed and two dozen wounded, while the Californians escaped almost unscathed. Stockton sent two hundred men to escort the demoralized body to San Diego.

Frémont, now promoted to a lieutenant-colonelcy, had spent some time round Monterey, procuring horses and supplies against receipts forced upon the unwilling farmers, and enlisting recruits, including a company of Indians. With nearly 450 men he thereupon set out from San Juan at the close of November, driving before him the poorly equipped and dwindling forces of M. Castro. Two skirmishes between American footmen and the swift California cavalry had inspired respect for the latter here as in the south, and Frémont thought it advisable to move with great caution, and at times by untrodden and difficult paths, in order to avoid pitfalls for his untrained followers. So slow was his advance that a month passed before he reached Santa Bárbara. Thence he turned toward Los Angeles, to effect a junction with the southern main body of 600 men which left San Diego on December 29th, under Stockton and Kearny, the latter yielding to the commodore the position of commander-in-chief, by virtue of his superior force, and the relief extended to himself.

The approach of two such formidable columns spread no little alarm in the intermediate districts. The rancheros began to hide supplies from the revolutionists, and to prepare for securing pardon. Flores sought to gain time for the cause by suggesting a truce to Stockton, on the ground that peace had probably been arranged in Mexico. The only reply was an offer of amnesty to all Californians save Flores, for having broken his parole. The lingering

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prestige of their several small successes in the field, still held together nearly 500 men under his banner, although demoralized by discord, mismanagement, hardships, and fear of consequences. With this body Flores attempted, on January 8, 1847, to dispute the fording of the river near San Gabriel. His two guns were soon silenced, and after some feeble demonstrations the Californians disappeared. Two days later Stockton reëntered the capital.

The following day Frémont reached San Fernando, there to be prevailed upon by the revolutionary leaders to grant an armistice and conclude the treaty of Cahuenga, dated January 13th, with Andrés Pico, to whom Flores and Castro had surrendered the command. All Californians were thereby pardoned, on surrendering the public weapons, consisting of two guns and six muskets, and promising not to take up arms again; they were moreover accorded all the privileges of American citizens without taking oath of allegiance. It was wise to remove all ill-feeling and apprehension by such generous conditions; but Frémont had no right to grant them when the commander-in-chief was so near, and no pressure existed. The Californians counted of course on his supposed greater liberality, and he was eager for popularity and prominence. The commodore was offended for awhile, but could not well refrain from approving the terms, particularly as Kearny stood prepared for a quarrel and sought to win Frémont to his side.

Kearny understood, and rightly, that the supreme command of the land forces and the governorship would fall to him on his arrival. Stockton, on the other hand, declared that those instructions were superseded by the fact that he and Frémont had achieved the conquest and established civil government, as he termed it, in accordance with prior instructions. In order to sustain this point the commodore prevailed on Frémont to side with him in consideration of a commission as governor, issued to him on Janu-

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ary 14th, with Major Russell as secretary of state. Finding his orders ignored, and the command of the naval troops withdrawn from him, Kearny fumed and vowed vengeance; but although the Mormon battalion, 300 strong, arrived at this juncture, he thought it imprudent to provoke hostilities. His forbearance was rewarded. At that very time Commodore Shubrick came to supersede Stockton in the command of the squadron, and while affirming the rights of the general, he urged a peaceful settlement. On retiring, January 19th, Stockton nevertheless turned over the command to Frémont at Los Angeles. The latter could not be blamed for supporting the man to whom he owed so much, nor for accepting the control until the two contestants had settled the dispute. He proclaimed the establishment of civil rule, disbanded a proportion of the volunteers, and raised some money for current expenses, although not without trouble in view of the doubts cast upon his authority. The assembly called by Stockton did not meet, chiefly because several of the California appointees refused to appear in a suspicious rôle while the political destinies of the province were still involved in obscurity.

Kearny had referred his case to Washington, and in February Colonel R. B. Mason arrived with orders for the senior officer of land forces to assume the position of governor, but that Kearny, as well as Frémont, should retire on the completion of the conquest, leaving to Mason the civil and military command. On the 1st of March, accordingly, the general, in conjunction with Shubrick, issued a circular, in which the former announced his assumption of the governorship, with Monterey as capital. California would remain under military rule until a territorial government was provided by congress. Los Angeles was reduced to headquarters for the southern district, the command of which was assigned to Cooke of the Mormon battalion, soon replaced by Stevenson of the New York volunteers. His own battalion Frémont was ordered

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to enroll into regular service, and to surrender all official documents at the new capital. As Kearny had not condescended to state his authority, Frémont naturally assumed that he sought to revive the old question and ignored the order. Indeed, he issued directions as governor for three weeks longer, and when the battalion exhibited its distrust for the service, he maintained it for the protection of the district, as he called it. Mason represented the case so bluntly to the explorer that a duel nearly ensued. Finally Frémont yielded, and was obliged at the close of May to accompany the irate general eastward with his topographing party. On reaching Fort Leavenworth he was declared under arrest, and ordered to report at Washington.

His trial lasted several months. With Senator Benton and W. Carey Jones for advocates, his case was so ably handled as to enlist general sympathy for him as an ill-used hero, who had performed the most signal services for the country as explorer, conqueror, and statesman. The court had nevertheless to find him guilty of disobedience to his superior officer, and sentence him to dismissal from the army. The president remitted the penalty, but Frémont refused clemency, and sent in his resignation. On the strength of his fame bolstered by the trial he returned to California to seek political honors and wealth from his Mariposa estates. A few years later he figured as candidate for the presidency. Stockton, who aspired to a similar honor, resigned in 1849, on inheriting a fortune, and represented New Jersey in the federal senate. Kearny died before the close of 1848, after being nominated major-general for gallant conduct at San Pascuel!

Among the results of Frémont's operations were claims for outrages, loans, and levies, which troubled alike the respondents, the sufferers, and the government. In 1852 a board was appointed to examine the matter, and after a session of three years out of

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the total claim of about $1,000,000 $157,000 was recommended for payment, and $187,000 for consideration, the rest being either rejected or suspended.

Prior to the treaty California was under provisional occupation, subject to military rule, and to a government responsible to the president, existing methods being continued in accordance with policy and international law. Sloat went too far, therefore, in promising annexation, as did Kearny, also, in absolving the people from their allegiance to Mexico, and in demanding from officials an oath to the constitution. When, after the treaty, congress neglected to provide a territorial organization, the existing *de facto* government continued.

Colonel Mason of the 1st United States dragoons assumed office as governor and commander-in-chief of the forces on May 31st. A few rumors and rash utterances kept the authorities on the alert. Santa Bárbara, for instance, was fined for the mysterious disappearance of a cannon, and Pico was placed under arrest when he returned to claim the governorship, on the ground that an armistice with Mexico left the former officials free to exercise their functions.

Order was maintained with the aid first of the Mormon battalion, the greater portion of which crossed Arizona and arrived at San Diego toward the close of January 1847. The fear inspired by their evil reputation proved groundless, for their behavior was of the best, and their services were in demand by farmers and other employers. They were mustered out in July 1847, and half of the number returned home at once, the remainder following them a year later.

The Mormon battalion had replaced a portion of the volunteers enrolled by Frémont, and on their departure, the 1st New York volunteer regiment, the formation of which had been ordered prior to the declaration of war, was ordered to the coast. It was

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recruited entirely from the industrial classes, and with a view to serve as a nucleus for settlement in California when its military career should end. The companies were mustered into service on August 1, 1846, and presented a large proportion of men who afterward attained distinction, although with a considerable sprinkling of vagabonds. Their leader, D. Stevenson, was a colonel of militia, ex-member of the legislature, and a democratic ward politician. The men sailed from New York in September, and arrived at San Francisco in March 1847, thence to be distributed in garrisons, Stevenson being appointed commander of the southern district. Their only field duties were the occasional pursuit of Indian cattle raiders. In August 1848, they were disbanded, the number of men being 658, and of officers 39, about 460 having deserted or been discharged, and one fourth of the regiment remaining in California.

By the peace treaty, proclaimed on August 6, 1848, the province became United States territory, the Mexican population being allowed the option of accepting citizenship, and congress was called upon to provide a government. This requirement brought out the real object of the democratic or war party, which was to outbalance the northern section of the union by adding slave states to the south. The first call for war funds had been conceded by the north only under the Wilmot proviso that slavery should not be permitted in any acquired territory. At the second call, early in 1847, the proviso was not insisted upon, lest it should excite sectional controversy and prolong the war. Now, when the question must be definitely settled, on the formation of territorial government, the north came forward determined to sustain its purpose. The democrats sought to carry their point by offering to leave the decision to the courts, but as these were favorable to the south it was rejected, and no organic act was passed during that session, except

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for Oregon, which lay beyond 36° of latitude, the limit for slavery, according to a late compromise.

During the next session both parties brought in a number of bills, more or less ingeniously framed, in order to win over the less stubborn with a show of concession. One proposed the admission of all the conquered region as a state, leaving the question of slavery to the inhabitants. As bondage had been forbidden by Mexican constitutions, the democrats saw herein only defeat, and the bill was ousted, chiefly on the ground of insufficient population. After much manœuvring, a bill was passed extending the revenue laws over California, the southerners expecting some advantage from the extension of the constitution thereby implied.

The knot was cut by California herself, lifted as she was to self-asserting power by the gold discovery, and the attendant influx of population, mainly from the north. The province had been the objective point for colonization projects on the part of several nations. Spain stepped in to save it for the Muscovites, and Britons and the Yankees in turn interfered to rescue it from colonial torpidity under Mexico, or conservative restrictions under a possible English domination, or even from an invasion by Mormons, who on their expulsion from the inner states first turned their attention to this shore. Elder Samuel Brannan came, indeed, by sea with an advance party of 238 persons, together with implements for farmers and mechanics, and other useful articles. Fortunately for all concerned, on his arrival, in July 1846, he found the country occupied by the United States forces. Nevertheless, he resolved to form a settlement, and half of his people remained, the rest in due time joining the main body, which had already sought refuge in Utah.

The gold discovery of January 24, 1848, of course gave a startling impetus to the new possessors of

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California. After some three months of pardonable doubt, the full reality burst upon the people, and a general rush set in for the gold fields. One effect was that all minds were so preoccupied as to remove any lingering fear of revolt; and well that it was so, for sailors and soldiers joined alike in the rush, leaving their posts comparatively defenceless. Farms were abandoned and towns deserted, save by women and children; churches were closed and newspapers suspended. Gold was the one cry and object. The excitement penetrated to adjoining regions, as Oregon, Mexico, and the Hawaiian islands, and brought the same year several thousands to swell the ranks, and extend the mining region to the Tuolumne on one side and Feather river on the other. Across sea and continent sped the tidings, and being sustained by official reports, created a furor such as the world had never yet beheld, especially on the western seaboard of Europe and the Atlantic slope of North America. Men of all classes prepared to seek a land now doubly favored by fortune, some for profit, and some for novelty and adventure. Ships were turned from their course to seek the rich passenger traffic; manufacturing establishments abandoned their regular channels to provide supplies, in food, implements, and comforts for the new and more profitable markets. Trade, industries, society were thrown out of course; the fever raged amid household and community; and the peace of the nations was profoundly disturbed.

Onward the human current flowed, first by sea, for winter still blocked the overland route. The movement began in November, and for February 1849 three score vessels were announced to sail from New York alone. During the following winter 250 ships departed from the eastern ports of the United States. Most of them passed round Cape Horn; others poured their living cargoes on the shores of the Isthmus, leaving them to find their way northward as best they could. The steamer service just then inaugurated

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gradually absorbed the passenger traffic, which for a while enriched also a line via Nicaragua. The first steamer entered San Francisco February 28, 1849.

The overland stream set in in April 1849, chiefly from the old-time migration points on the western border of the Missouri and by way of the South pass, Great Salt lake, and Humboldt river. The next in importance passed through Santa Fé and Arizona. For the sea route many parties had been formed for mutual aid in the new and unknown field. For the land journey this became indispensable in order to move and protect the trains of huge prairie wagons along an often difficult route, obstructed by swamps and rivers, steep ridges and desert plains, subject to storms and heat, to famine, thirst, and hardship, and the raids of marauding savages, to which many a party fell a prey.

Such was the influx which raised the white population of California from 12,000 in the summer of 1848 to 100,000 by the autumn of 1849. A desirable addition it was, if we except certain elements from Mexico and Australia, for the distance and cost served to keep back the lowest classes, as did the hardships of the journey and mining life the infirm and indolent. The chosen manhood from different classes and nationalities came there to occupy the land, in fitting accord with its beauty, resources, and prospects. It was a cosmopolitan gathering, marked by the youthfulness of the men and the rarity of women. The latter awaited a more advanced condition before venturing amid this abnormal society, with its extravagance, and feverish exuberance, and helping to transform the tented camps, with their drinking orgies and gambling hells, into villages and towns which in time became the centres for trade and manufactories and agricultural districts.

The immigration thus far had been into the peaceful valleys of the coast region south of San Francisco bay. Now it poured into the hitherto almost un-

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trodden wilds of the Sacramento and San Joaquin valleys, lining their streams with camps and towns, and drawing in their wake a net-work of transports. Steamboats ascended the rivers; wagons crossed the valleys; and mule-trains wound their way up the sierras, the prospector toiling on in advance to open new fields for occupation. As mining declined, a reflux set in toward the scantily occupied coast valleys on both sides of the bay, and thence back again into the great valleys, this time with plow instead of pick.

Commerce prospered throughout these changes,and prospective metropolitan cities sprang up, especially round the central bay, on which nearly all the valleys and rivers converged. Benicia, Vallejo, and others strove in vain for the distinction; it remained with the city at the gate, which rose from a village in 1848 to a town of several thousand inhabitants in 1849. Wharves were projected to meet inflowing fleets; hills were torn down and thrown in behind them to transform the shallow cove into business blocks, while dwellings spread around over the ridges and slopes. In the interior Stockton obtained the control of the San Joaquin traffic, and Sacramento that of the upper valley, while a host of minor posts were content to figure as tributaries.

Colonel Mason, as military ruler, was the embodiment of fidelity to the general government, and while confining himself to carrying out instructions and avoiding the dangers of assumed responsibility, he did very well under the anomalous condition of affairs. He could not stay the inroads of land-sharks on the estates of the simple natives and pioneers, but during his administration sensible alcaldes and mixed juries assisted in suppressing crimes, which subsequently demanded the interposition of vigilance committees. He was relieved early in 1849 and went home, only to succumb to cholera in the same summer, at the age of sixty.

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During the winter of 1848-9 the people found a little time to devote to other matters than gold. The military rule at once struck them as objectionable, and the appointment of General P. F. Smith to replace Mason as military commander did not improve the feeling. Meetings at San Francisco and elsewhere agreed upon a convention for the summer of 1849. In April, however, General Bennett Riley arrived with a brigade of 650 men, bearing instructions to head the civil government, which was then supposed to be already in existence. Finding that congress had neglected to grant a government, and that the people clamored for it, he sensibly proposed to form a temporary one, by ordering the election of officers on August 1st, to serve until the close of the year, and assist in a vigorous enforcement of the existing laws, so far as they did not conflict with those of the United States.

At the same time delegates were to be chosen for a convention to meet in September at Monterey and frame either a state constitution or a territorial organization, to be submitted to congress. The choice of thirty-seven delegates as first apportioned gave a decided preponderance to men of southern sympathies, but under the rapid influx of gold-seekers eleven more were admitted, so that twenty-two came from northern states, fifteen from slave states, seven were native Californians, and four foreign born. The southern element nevertheless sought to obtain the management, under the guidance of W. M. Gwin and T. B. King. The latter was confidential agent of the government, and although a Pennsylvanian by birth he had represented Georgia in congress as a state rights advocate. Gwin was a congressman from Mississippi who had come to the coast with the express object of becoming senator for California. Made confident by their growing strength, the northerners stood prepared to resent any dictation from the chivalry. Gwin was ridiculed out of his pretensions

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to the presidency of the convention, and Temple, the pioneer editor, a man of gigantic stature, was selected.

A great struggle was expected on the question of slavery, but to the surprise of the northerners no objection was raised to its exclusion. The southerners had gauged the temper of the majority, and intent on office they did not choose to provoke it. They hoped to gain their point in a subsequent division of the country or by congressional interference. This they accordingly sought to facilitate by proposing an extension of the boundary to embrace all of the conquered territory, even as far as the Texan border. Again northern acumen thwarted them. It was dedecided to adopt the lines most likely to meet with approval, so as not to defeat the admission to statehood, to which the fast-growing population aspired. The present boundary was therefore adopted, or nearly so, along the 120th meridian, from the 42d to the 39th parallel, and thence to the Colorado river. As a precautionary compromise a proviso was added to extend the boundary as far as New Mexico, if congress should object to the line of the Sierra Nevada.

The age for citizenship was placed at twenty-four years. Indians might be admitted to suffrage by the legislature. This body was restricted in the creation of corporations and the contracting of debts. Taxes were largely left to loyal decision by giving to counties and towns the election of assessors and boards of supervisors. Married women were protected in their property; duels were forbidden. The secretary of state and other state officers were appointed by the governor, subject to legislative consent. The constitution was mainly copied from those of New York and Iowa, modified by the heterogeneous character of the convention, and its defects were due to circumstances rather than judgment. It was completed on the 13th of October, 1849, and adopted almost unanimously on November 13th. The officials then elected

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were: Peter H. Burnett, governor; John McDougal, lieutenant-governor; Edward Gilbert, and G. W. Wright, congressmen. On December 12th Governor Riley proclaimed the constitution as established, and on the 20th Burnett was installed in his place, with H. W. Halleck for secretary, as he had been under preceding administrations. Other appointments were gradually cancelled as the state government came into operation in all branches. Riley, "the grim old swearer," departed the following summer, bearing tangible proofs of esteem for the statesman-like tact which had tempered his firm military dictatorship.

Burnett was born in Nashville, Tennessee, in 1807, and passed the greater portion of his youth on the Missouri border. After a brief experience as clerk in a store, he studied law and became an editor, but met with so little success that in 1843 he migrated with his family to Oregon, there to figure as farmer, lawyer, legislator, and judge. The gold discovery induced him to seek a firmer foundation for his fortune in California, and this came to him as agent from Sutter. His prestige as judge of the supreme court of the northern state, brought him additional prominence at a time when the country, in its striving for statehood, eagerly appreciated such experience. Thus it was that he received the office of judge of the supreme court, which he resumed in 1857–8, and then of governor. Later he became president of the Pacific bank of San Francisco.

The first legislature consisted of sixteen senators and thirty-six assemblymen. A few displayed the youthful exuberance of the mining camps, but the greater number were staid, sensible, and energetic men, above the sordid considerations and political prostitution which stained later bodies. The appellation "Legislature of a Thousand Drinks," was due to a facetious lobbyist rather than to any marked excess. It was organized on December 17th, with

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T. J. White as speaker for the assembly and E. Kirby Chamberlain as president pro tempore of the senate.

The meeting took place at San José, which had secured the privilege from the convention at Monterey on condition of providing a suitable building, but this proved to be of such poor quality that the legislature was on the point of returning to the old capital. At the close of the session no permanent capital was selected, owing to the rivalry of different towns; and thus the honor was hawked about for several years. Vallejo made so brilliant an offer on behalf of the town named after him, that the second legislature adopted it as a permanent seat, although so dissatisfied with the accommodation that it moved back to San José. Its successor found the former town so dull and remote that a change was made to Sacramento. The legislature of 1853 made Benicia the seat, but in the following year the law-makers once more had recourse to Sacramento. The judiciary now interposed in behalf of San José as the constitutional capital, but was overruled, and Sacramento retained the position. The worst feature of these changes was the use of money to buy votes in each case, with the attendant disregard for the interests both of the state and the individuals concerned.

One of the first tasks of the legislature was to elect United States senators. Frémont received the highest vote, by virtue of the popularity acquired during the conquest, and affirmed during his trial. Gwin, who came next, had the advantage over his competitors, especially over King, being an abler, cooler, and more crafty man than any, and with a less pronounced selfishness, that did not overlook the claims of his state and party. His pro-slavery sentiments favored him, since it was necessary to court the southern element in order to gain admission to statehood. Among the unsuccessful candidates, Secretary Halleck, and T. J. Henley, secured more votes than King.

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The election of state officers made S. C. Hastings chief justice, with H. A. Lyons and Nathaniel Bennett for associates; Richard Roman treasurer; J. S. Houston comptroller; E. J. C. Kewen attorney-general, soon succeeded by J. A. McDougall; and C. A. Whiting surveyor-general; and later, J. G. Marvin superintendent of public instruction. The annual state election was appointed for the first Monday in October, and county elections for the first Monday of April, in 1852, and every second year thereafter.

Nine judicial districts were created, one for San Francisco, three for the coast counties south of the bay, one for San Joaquin valley, and four to embrace the northern half of the state. The district courts would replace the courts of first instance, those of the second and third instance being at once abolished. The judges were elected by the people and commissioned by the governor, while the legislature chose the supreme judges. A municipal court of three superior judges was assigned to the metropolis. Justices of the peace attended to minor cases. The common law was recommended for guidance in the absence of statutory law. The state was divided into twenty-seven counties, and county seats established, except in four northern sections, which were attached judicially to Sonoma and Shasta; and in a few cases the selection was left to the inhabitants.

All free white men between the ages of eighteen and forty-five were declared subject to military duty, except such as had served in the army or navy, or were members of volunteer companies. The militia and independent corps were organized into four divisions and eight brigades, under the governor as commander-in-chief, who might appoint two aids-de-camp, with the rank of colonels of cavalry, the legislature electing the major and brigadier-generals, one adjutant, and one quartermaster-general. All persons liable to enrolment and not members of any company were required to pay two dollars annually

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into the county treasury for a military fund, which was increased by the exemption tax of minors. It was applied solely to that department, including salaries of officers or rather of the adjutant and quartermaster-general, for the rest were compensated by rank alone. In 1872 the organized uniformed troops were converted into the present National Guard, consisting of thirty-six infantry, six cavalry, and two artillery companies, whose pay, when in service, was the same as in the United States army. The sum of $300 was annually allowed for expenses to each company of over sixty members; to others in proportion.

A state tax was imposed of fifty cents on every $100 worth of assessed property, with certain exemptions for widows: and a poll tax of $5 on every male between the ages of twenty-one and fifty. The expenses of county governments were to be defrayed partly from licenses for every kind of pursuit save mining. Meanwhile the empty treasury was replenished by a loan of $200,000 for a term not exceeding twelve years, and the treasurer was authorized to issue bonds for an amount not exceeding $300,000, at three per cent per month, payable in six months, as a temporary accommodation. Not content with this, the legislature passed an act authorizing a loan in New York of not more than $1,000,000, at ten per cent per annum, redeemable in from ten to twenty years.

The propensity for accumulating debt has characterized so many of the new states that California, with her golden prospects of wealth, could hardly be expected to abstain, especially under the feeling of exuberance then prevailing. Circumstances were also partly to blame, for prices were exceedingly high, and consequently expenses. The legislators drew $16 per diem, with extravagant mileage, and the pay roll of the state officers exceeded $100,000. Yet such were the inducements to members to look after their mining and other interests that a quorum was difficult

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to obtain. The senate was compelled at one time to reduce the number requisite for a quorum in order not to obstruct business. Several resignations had to be accepted, followed by new elections. Nevertheless the first legislature did its work with commendable zeal.

Northern sentiments predominated, and the local southern element, being as desirous as the rest for the admission of the state, did not feel disposed to revive here the struggle going on at the national capital. Both sides united in condemning congressional opposition to the pretensions of the state on account of the slavery question, the decision of which should be left entirely to the territory concerned. This the democratic or pro-slavery party at Washington conceded as a principle, but resisted its application when opposed to their aims. The southerners chose to lord it over the northern mudsills in congress, assailing them with fiery invectives, and declaring every compromise or equitable allowance a pure concession by the south.

When California came forward in earnest for admission the slavery struggle burst forth anew. The southerners had entertained hopes that circumstances might favor them in securing that region for their side, notwithstanding the temporary recognition of the Wilmot proviso, in order to obtain money for the war. The effect of the gold fever in bringing a predominating northern influx was an unexpected and irremediable blow to their plans. The ready yielding of their agents in the state convention and legislature, for personal motives, was another disappointment. The only recourse now was to defer the triumph, particularly as affecting the political balance in congress.

The California delegation was assiduously courted by the northern statesmen, and the coldness of his own party toward Gwin strengthened his personal disposition to respond to the others. Clay regarded the aspect as sufficiently serious to propose a com-

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promise, which among other points, renounced the Wilmot proviso for the territories, and offered to pay the early debt of Texas. During the long discussion the resolutions were altered and amended beyond recognition, yet most of them were incorporated in special bills and passed, constituting in effect a compromise. The way thus smoothed, the bill for admission passed the senate on August 13th by a vote of 34 to 18 The democratic side numbered 32, and among these several rushed forward to sustain a protest against the act as an infringement of the constitution, violating the rights of the south, and endangering liberty and equality. California should have been fairly divided between the free and slave states. Such was the feeling which in due time culminated in a war of secession, and for which California was one of the innocent causes. Notwithstanding the efforts of opponents the house likewise passed the bill on September 7th, by a vote of 150 to 56. It was approved on the 9th, and two days later the California delegation presented itself, in face of the last ineffectual remonstrances of the south. The long delay had created no little anger in the state. Officials joined in expressing disapproval, and even revolutionary sentiments were freely uttered, in favor of separation and independence. Although nothing serious was likely to happen, a general feeling of relief as well as joy greeted the arrival of the good news.

During the congressional discussion of California's fate, party leaders in the state sought to make clearer the line between whigs and democrats, by agitating the points at issue and calling for a rally. In San Francisco indeed the democrats gained the control, together with the independents, while the whigs had the upper hand in Sacramento. The reason was the dependence of the latter place on the mines, where northerners preponderated. The northern counties were so superior numerically that they could readily

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determine political action, yet the miners were more interested in legislation on mining, and prepared to make this an issue rather than a party question, so that with a proper consideration for this demand even a pronounced southerner might acquire a large support among the classes with whig sympathies.

The election of October 7, 1850, brought to the legislature 27 democrats and 8 independents against 18 whigs. The following year saw the apportionment increased to 62 members in the assembly and 27 in the senate, only one whig being added to the latter body. The call to elect a senator to succeed Frémont brought forth the strength of the anti-free-soil party. Frémont fell out of the race, partly from having attended so little to the duties of his position, but neither side could secure the needful votes for any other candidate. One reason was the broadening distinction between northern and pro-slavery democrats, animated by somewhat different interests. The place remained vacant till 1862, when the choice, after a struggle, fell on John B. Weller, a protegé of the Gwin faction.

Although a native of Ohio, where he had held positions of honor, Weller was a pro-slavery man. As colonel of a regiment during the Mexican war, he obtained from his general, when chosen president, the appointment of Mexican boundary commissioner. The admission of the state prompted him to turn to politics, with a view to the prize which he now gained. He studied the interests of his party so well as to receive subsequently the gubernatorial office.

By this time the democrats had fortified themselves by careful organization. Their first state convention had met in May 1851, with 176 delegates. It was planned and directed by Gwin, whose hand was everywhere visible. He joined in an attack upon the whig administration at Washington, whose hostility to California was shown in the scantiness of the favors wrung from it by the redoubtable senator; and

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he roused the miners in particular by pointing to the heavy drain on their earnings through the neglect to establish a local mint.

The whigs were not backward in mustering, but their delegates numbered only 100, seven counties being unrepresented. They appealed to the mining class by proposing that mineral lands should be held by the government for their benefit, to be worked free of taxes; and that the land should be given the immediate benefit of preëmption laws. Other measures were suggested, but like the democrats they carefully abstained from alluding to local corruption and reform, as if afraid to attract the enmity of the class which was then rousing the ire of the vigilance committee.

The independents, or true California party, lacked cohesion and did not attempt to form a ticket, preferring to cast its influence on the side which promised best to promote the interests of the state, and to let its organs wield a censorship over the other parties. Unfortunately for the whigs their preference for them tended only to create a split, and so further the aims of the more disciplined and unit-loving democrats, who indeed retained the supremacy throughout the fifties.

The whigs had been unfortunate also in neglecting the southern half of the state in their nominations, for a similar disregard by the other party left here an advantage to their opponents. The democrats had been more calculating than careless in this respect. They still aspired to form a slave state by dividing California, and to this end they preferred to rouse discontent in that section. By neglecting to assign congressional districts, the legislature allowed the congressmen, McCorkle and Marshall, to be elected at large, thus inflicting another slight on the south.

Governor Burnett was a suave, correct man, who impressed people with his judicial air, while readily

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accommodating himself to circumstances and opinions, thus avoiding serious errors, if not aspiring to high achievements. He was too slow and conservative, however, for the time, and when, in consequence of conversion to the catholic faith and the pressure of private business, he resigned his office in 1851, there was no very pronounced expression of regret. Nevertheless he was a loss to the state, for his successor, whatever may have been his merits or demerits, shed no special lustre over the rising star of California. Like Weller, John McDougal was a native of Ohio, and had figured in official capacity in Indiana, and served in Indian fights as well as in the Mexican war. His brilliant social talents, fine appearance, and genial qualities won for him a leading position among democrats, which lifted him to office, and subsequently secured his election to the United States senate. His greatest failing was a too strict devotion to party.

On the 8th of January, 1852, John Bigler was installed as governor. At this date the squatters were powerful, and Bigler, whose struggles with fortune in various humble capacities had brought him in contact with their class, and whose neighborly disposition had won their appreciation, courted them with such success as to gain a small majority over his opponent Reading, the choice of the more aristocratic chivalry. He was also a good-natured man, so much so as readily to lend himself to corruption, despite frequent expostulations with a legislature that squandered the resources of the state. The whigs saw herein a chance for supplanting him at the following election by nominating W. Waldo, who was esteemed no less for his pure principles and firmness, than for liberal and philanthropic views. But the democrats had special reasons for rallying to the support of its office-holders. Their plans for speculation had matured and the fruit must be left for others to gather. One of the main prizes was the water-lot property of

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San Francsico, from which Bigler's adherents expected to gain $4,000,000. They could afford, therefore, to spend money in buying votes, and in stuffing ballot-boxes. At San Francisco alone $1,500,000 were distributed, so that this, the centre of the whigs, actually gave a majority for its proposed spoliation, allowing him to retain the gubernatorial seat for a second term. The water-lot bill was defeated however, owing to the vigilance of the city representatives.

In 1852 took place the first presidential election in California. Both factions strained every effort in order to gain standing with the national party. The whigs were defeated, and the democrats claimed no little credit with the victorious administration for having secured a majority for Pierce out of the total vote of 71,189. The distribution of patronage, however, caused no little contention, involving as it did the entire list of federal offices. The chief prize, the collectorship of customs, was tendered to R. P. Hammond, a retired army man residing in the state. M. S. Latham and J. A. McDougall were sent to congress.

Finding themselves thus strengthened the democrats renewed their efforts for the division of the state, by proposing a new constitution. A number of disaffected whigs promoted the scheme with a view to gain votes from the main party. The measure was tried again in 1856–7, but received so meagre a vote that it could not be acted upon.

Meanwhile the southerners tried to obtain permission for their immigrants to bring slaves into the country, several being introduced in anticipation; but public sentiment had turned against the admission of inferior races, whether foreigners or natives. It had asserted itself not alone against Australian convicts and proposed coolie or contract labor, but most unjustly against local Spanish-Americans. Now it opposed also the entry of negro slaves. So sweeping were the views of many northerners in this regard

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that they were in 1852 prevailed on to pass the fugitive act, under which even free negroes were liable to be seized and reënslaved. Fortunately the judges were merciful, and most negroes so arrested were released. After several extensions the law was allowed to lapse in 1858. The habit of kidnapping Indians for forced servitude was likewise frowned down.

A fearlesss opponent of such oppressive enactments, and of the high-handed chivalry had risen in the person of David Colbert Broderick, born at Kilkenny, Ireland, in 1820, but brought at an early age to the United States by his father, a stone-cutter, whose trade he followed. At New York he fell in with the rough, muscular element, and became a leader among firemen, with their political predilections. His inherent magnetism and capacity for organization soon revealed themselves, and roused his ambition to display them in higher circles. He opened a dram-shop in order to gain time for study in the branches of learning necessary for advancement, and opportunity for winning adherents. With their aid he stepped into the custom-house, and then posed for congress. The commendable desire to form loftier principles for conduct than were prevalent among his associates lost him a considerable following, and he was defeated.

Dejected and penniless, he sought California in 1849, and with somewhat retrieved fortune, made his bow before the representatives of New York democracy at San Francisco. The next year he entered the state senate. His prestige as a trained politician, who had presided over conventions and directed political campaigns at the east, raised him to the presidency of the body. He studied law to acquire skill for the position, and filled it ably. Notwithstanding his association with the base, his own deportment was most exemplary. He was a man of strong convictions, with loves and hates intense; with womanly sensibilities held in control by a powerful will; and a

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reserve tinged with melancholy—a man who rarely smiled.

His ambition now aspired to a senatorship, and to this end he fitted every political act. The pro-slavery democrats under Gwin objected to him as a presumptuous northern plebeian, with anti-slavery principles. Broderick's attitude in consequence tended to make clearer the distinction between northern and southern democrats, notwithstanding the strong unity of ideas in the party. This was affirmed by the contention for spoil at the change of the administration, for Gwin's side favored only the south, preferring, indeed, a whig from that quarter to an anti-slavery democrat.

Gwin had displayed admirable tact. As a democrat in a democratic senate he had wielded a strong influence over the acts and appointments of the whig administration, and still greater was his power under the new régime, while in California he had been the head of the democratic party, a position only now to be disputed. He had performed marked services for the state, in promoting enactments and appropriations, and his efforts were widely appreciated; but he had not neglected his own interests, as shown in many momentary schemes, such as the purchase of Moffatt's assay office for a mint, at an extravagant price.

The end of his term approaching, Broderick strove to secure his seat for himself; first, by a futile proposal for a nomination in advance of the regular time, when more friends could be mustered; secondly, by packing the state convention with his adherents. Here also he was foiled by the activity of Gwin's men, who, with a more complete organization, carried the election of the two congressmen, J. W. Denon, later governor of Kansas, and V. T. Herbert of unsavory fame, and a majority for the legislature, so much so that a joint convention gave them 43 members, known as anti-electionists or bolters, while the electionists or Broderick men numbered only 28, the whigs having 42. The senatorial contest could

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not therefore be won by Broderick, but he managed to humiliate his opponents by withholding the triumph from them and gaining time for himself.

Turning his attention once more to the state conventions, he secured the control and the nominations. The reason for this success lay in the formation of a new party. A proportion of discontented whigs and democrats in the United States had agreed to form a new affiliation, aiming to unite the north and south, one of their main principles being a repeal of the Missouri compromise, restricting slavery north of 36° 30′ latitude, on the ground that the north was unjustly encouraging an immigration of low foreigners, and surrendering to them land belonging equally to the south. This American or know-nothing party found many adherents in California, on the additional grounds that foreigners were carrying away the gold of the coast, and bringing in a low race-competition with labor. The democrats embraced a large number of Irish and Germans, who felt insulted by the proposed restriction, and another section which had been disappointed by the absorption of patronage by southerners. Both of these classes Broderick won to his standard. In despair over the wide defection, Gwin joined forces with the know-nothings, and helped them to elect J. Neely Johnson for governor by a vote of 51,157 against the Broderick vote of 46,220 for Bigler. Johnson was a lawyer from southern Indiana, who had served as city and district attorney. Subsequently he sat on the supreme bench in Nevada. Bigler resumed the practice of law, and served a few years later as minister to Chili, railway commissioner, and collector. He died at Sacramento in 1871.

The know-nothings were forced to carry out some of their promised reforms under the significant admonitions of the vigilance committee, which in 1856 rose a second time to purify in particular a corrupt local administration, and to sustain the improvement by the formation of a people's party at the metropo-

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lis. Their strength was wholly fictitious; for no sooner did the old parties offer substantial inducements than large numbers returned to their allegiance. The final blow to the ephemeral coalition was given by the formation of the republican party, which appeared during this year in the presidential contest with Frémont as a figure-head, while the know-nothings and whigs rallied round Fillmore, and the reunited democrats round Buchanan. Frémont's popularity had here been undermined by his contracts and other suspicious transactions, and the republican organization was too recent to inspire confidence. California, accordingly, gave nearly one half of her votes to swell the democratic triumph, both in state and federal circles.

The success was greatly due to Broderick's control of the convention, and its nominations, whereby he hoped to gain credit with the federal authorities, and a sufficient majority in the legislature to assure his own election to the senate. It so happened that Weller's term was about to expire, and as this would be the longer one, Gwin's place having now been vacant for some time, Broderick proposed to secure it, first, by prevailing on the legislature in caucus to fill this seat irregularly in advance of the other; secondly, by bargaining for additional support among other candidates, notably Latham and Gwin, with the intimation to each that he should be the choice for colleague. Both manœuvres succeeded, and Broderick obtained Weller's seat.

Thus secure, he resolved to extort further advantages for himself from the candidates for the short term, and on Gwin offering to surrender all patronage, he threw over Latham. Broderick thought it better for himself to side with a man who was popular both with the federal administration and the people of California. As for the price demanded, he considered it only fair that northern men should taste the sweets of office so long reserved for the south. He had mis-

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calculated his strength, however, for, on arriving at Washington, he was scowled upon as an interloper who had abused a momentary hold on the chivalrous Gwin. His recommendations to office were almost wholly ignored, and Gwin's advice governed the leading and most numerous appointments.

Broderick returned to California in 1858, deeply mortified, but with the hope that his influence would make itself felt in the nomination for the governorship. But his discomfirture at the capital, notably in failing to procure the expected rewards for his supporters, and his double-dealing in securing the senatorship, had roused so many foes, that he thought it prudent to hold aloof. His opponent, Weller, who had returned amid ovations, received the governorship. With additional motives for disgust, Broderick was now brooding over schemes for retaliation. The occasion presented itself in the question of admitting slavery into the territories, leaving it to states to decide on its retention. It centered in Kansas, where the federal government had aided in the persecution of free-soil men. In the United States senate Douglas was the only member who rose in opposition to slavery. By his side Broderick ranged himself, the champion of labor, eager to attack the ranks of his foes, notwithstanding his instructions from the legislature to take another course. Unfortunately for himself he had no oratorial tact. In denouncing the president, Lecomptonites, and the slavery party, he did so in blunt and caustic terms, which laid him open to the charge of coarseness, and seriously injured the cause.

Condemned by the legislature, Broderick hastened back to organize the anti-Lecompton wing of the democratic party, and fuse with the republicans on McKibben for congressman. He saw no other way of sustaining the lofty cause which he had undertaken. Gwin and he came frequently in collision during the campaign, and both his policy and taunts so provoked the chivalry that they resolved upon removing a man

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so dangerous to their cause. They triumphed at the election, and M. S. Latham, who had been so ill-used by Broderick, was elected governor.

On the very next day, Terry, as judge of the supreme court, resigned his seat to take up the bludgeon on behalf of his party, and fight the senator. Broderick had himself given occasion for the challenge, and his friends expected him to offer a bold front. Yet he had a mournful presentiment of being destined for sacrifice, by some other hand if he escaped from Terry's. They met on September 13, 1859. Broderick fell. "They have killed me because I was opposed to the extension of slavery, and a corrupt administration," were his dying words, which sent a thrill through the hearts of all true men.

Milton S. Latham was a lawyer, born in Ohio, of New England stock, but educated in Alabama and there impressed with democratic ideas. He arrived in California in 1850. A few months later, at the age of twenty-two, he was sent to congress, and there exerted himself so effectually during his term of office as to receive the collectorship of San Francisco in 1856. He stood pledged to this city to oppose the obnoxious bulk-head bill, which proposed to grant to a monopoly the extreme water-front for fifty years. This not suiting an interested clique in the legislature, he was elected the successor of Broderick the day after his inaugural, and so sent out of the way. The lieutenant-governor, J. G. Downey, then took the executive chair.

Latham entered the senate to share in the most momentous of congressional struggles, and California herself became the scene for strife between the factions of the two great parties. The relations between the northern and southern states were approaching a crisis. The former were determined to take a stand against the growing pretensions and insolence of the slavery party, and the latter declared that the elec-

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tion of a republican president would be ground for secession. Upon this then hinged the issue. The Lecomptonites, who aimed to carry slavery into the territories, and so degrade or drive out white labor, facilitating their retention as slave states, nominated for their candidate J. C. Breckenridge of Kentucky, while the anti-Lecomptonites chose for standard-bearer S. A. Douglas of Illinois, the sole associate of Broderick in the senate, with the principle that slavery in any territory was to be optional with the people, not with congress. Gwin and Latham, although at variance, decided for the former, and persuaded the entire democratic delegation to join them, despite instructions. Gwin hinted at a Pacific republic bounded by the Rocky mountains, and declared that in case of secession California would side with the south.

The legislature had indeed given no meagre cause for the assertion, by passing in 1859 an act permitting the southern counties below the 36th parallel to vote on a division of the state. The result was a two-thirds vote for division, chiefly on the ground of unequal taxation, which favored the mines at the expense of this agricultural section. The legislature of 1860 reconsidered the subject, and urged its representatives to oppose its execution in congress. A minority report here pointed out the unconstitutionality of the act, supported by only a portion of the state, and as state rights seriously concerned the party in power at the time, the report had to be heeded, although with bad grace.

The north had also split on the great issue. The whigs had mostly been transformed into republicans, whose northern and union principles were gaining wide attention. The American party still lingered, however, although now denominated the constitutional union. It nominated John Bell of Tennessee as a compromise candidate, while the others came out boldly for a stanch northerner. Seward, as the foremost republican leader, was generally expected to ob-

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tain the nomination, but as frequently has happened the more prominent the figure the greater the faction jealousy, and so by a fortunate accident the choice fell on one little known, Abraham Lincoln of Illinois.

The republicans of California were largely composed of young men, eager for fresh issues and the advancement of the state. The newness of the party prompted an attitude and platform that should win adherents, and such was its success that it assisted in bringing in a plurality for Lincoln over Douglas of 700 votes, the latter surpassing Breckenridge by 3,000. Thus was overthrown the exultant chivalry, which within one year turned a majority of nearly 21,000 into a defeat.

The double revulsion against the Lecomptonites arose partly from the disinclination to be drawn into the quarrel between the north and south, partly from the neglect of the congressional representatives. Not a little was due to the murder of Broderick, whose course in the east, once condemned, was now formally upheld by special resolution on the part of a legislature which, although still very largely democratic, leaned strongly to the Douglas side. It stood bound against any bills favoring bulk-head and state division schemes, and did its duty, submitting instead several amendments to the constitution, for biennial legislative sessions, for a gubernatorial term of four years, and a change in the judiciary system, which were adopted.

Gwin being politically dead to California, the Douglas democrats, supported by the republicans, chose for his successor, James A. McDougall, a talented but dissipated lawyer from New York, who had figured as attorney-general in Illinois and California, and latterly as congressman. So half-hearted was his support of the administration that he was repudiated. Latham drifted gradually into pronounced slavery ideas.

In California the popular sentiment for the union

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was becoming so expressed that the legislature considered it a duty to formally avow its loyalty in order not to encourage secessionists with a Pacific republic idea. Moreover, California's present great object was railway connection with the east, and other interests tending to pledge her to the union. The north responded with great promptness by giving a daily mail, by promoting the completion of telegraph connection in October, 1861, and by pushing the all-important railway, and so confirmed the fidelity of the people. Republican associations adopted the term, administration union clubs, press, and pulpit lent their aid, and corporations and individuals manifested their disposition by a wide display of union flags, which alone were tolerated. The militia was organized in six divisions and twelve brigades, with provisions for equipment and calling into service. To every demand for troops California responded so freely with volunteers that no levy was ever required. A special tax was levied to pay extra bounty to recruits and remuneration to volunteers, and for this and other purposes, such as encampments, debt was increased to more than $5,300,000. The direct federal tax of $254,500, apportioned to the state, was paid at once in advance of time. The contribution to the sanitary commission from California alone was more than $1,200,000, a sum largely in excess of contributions from other quarters; and official steps were taken to suppress all disloyal utterances and acts, especially in the southern counties, where volunteers were stationed for the purpose. Passports were required to check emigration to Texas.

These measures were ably supported, first by General E. A. Sumner, who had been sent in all haste to replace General A. S. Johnston in command of the military department. The change was opportune, for Johnston hastened away to join the rebels and lay down his life at Shiloh for the "lost cause." Sumner's prompt and decisive action was formally declared

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by the legislature to have saved the state from civil war. He was early succeeded by Colonel G. Wright and he by General McDowell, who were no less zealous.

The only act of the state which did not wholly respond to the call of patriotism was the refusal to receive depreciated paper money as legal tender, for the country produced much gold, business had been established on a basis of gold payments, and a change would have created serious disturbance. It has also been objected to that Californians cut no figure in the war. The reason was simply that while she freely offered men, they were required on the coast, to awe secession, to guard against foreign interference, and to hold the threatening Indians in check. In other respects she supplied more than her share of money, in taxes and gifts, and by her attitude did much to assist the union cause.

During this state of affairs the republicans naturally gained the ascendency, and in 1861 they placed Leland Stanford, who had canvassed for the party, in the gubernatorial chair, and sent Sargent, Phelps, and Low to congress. In 1862 they called themselves the union party, and liberally invited all loyal democrats to join. This enabled the latter to replace Latham with John Conness, a late democratic candidate for governor. The new senator was an energetic man, and brought his slothful colleague to task, but he was likewise a politician who exerted his influence at the primary conventions to manipulate the ticket to his own liking.

The election of 1863 awakened special interest, on account of the longer terms now introduced by the constitutional amendments, the governor and state officials for four years from December, a legislature whose senators should in part hold over for four years, and a new bench of supreme judges to sit for ten years. F. F. Low, late collector of San Francisco, became governor, and T. B. Shannon, W. Higby, and G. Cole, congressmen, all firm union men.

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Shafter, Sawyer, Sanderson, Currey, and Rhodes were chosen supreme judges, together with fourteen district judges and forty-two county judges. The tempting prizes had attracted a copperhead competition, through whom secessionists sought to gain some spoils, by dilating on the length and cost of the war and the prospective repetition of drafts for the army. Although defeated by a majority of more than 20,000 their arguments left a certain impression, which in 1864, during the presidential election, manifested itself in more pronounced disloyal utterances, and in the southern counties by election tricks and outrages on union voters. The cause lay partly in the influx of fugitives from the harassed eastern states. The assassination of Lincoln, however, who had received a large majority also in California, created for a time so bitter a feeling against secessionists, attended by raids on democratic newspaper offices, that southern sympathies had to be subdued.

The loyalty of the coast had been rewarded with concessions for a transcontinental railway, which was intended also to bind it closer to the union. Such a line had, in fact, become for several reasons almost a national necessity; first, to check the threatened secession of California and other Pacific states and territories; second, to put an end to Indian wars, or at least to shorten their term; and third, to develop the vast and then almost unpeopled region between the Missouri river and the Pacific ocean, an area forming more than one half of the entire surface of the union.

Among those who sought to manipulate the elections in its behalf was Senator Conness. Relying too much on the cohesion of the union party and his own management, he ventured to nominate for governor G. C. Gorham, a man hateful to San Francisco for his complicity in the water-front scheme, and marked as an obnoxious lobbyist in a legislature, only too willing

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to favor wealthy corporations. Other nominations pointed, moreover, so clearly to a prostitution of party principles for place and money, that a number of the purest men seceded, to form, in protest, the national republican party. The split served to strengthen the democrats, who likewise gained numerous adherents from other union seceders, and from the working classes, by artful heralding of reforms and declarations against monopoly and war rates. The result was their capture of the executive office and of most of the assembly seats. The union party, founded on pure and patriotic principles, was wrecked, and state politics returned to their wallowing in the mire.

The new governor, H. H. Haight, was a lawyer, born at Rochester, New York, in 1825, educated at Yale, and admitted to the bar at St. Louis, whence he came with his father to practice his profession in San Francisco, and to seek for place.

Conness' seat in the federal senate was filled by Eugene Casserly, a pure and accomplished lawyer of Irish birth, above chicanery, and a worthy colleague of Cornelius Cole, a republican lawyer from New York, whose election some time before, to succeed McDougall, was marked as perhaps the only senatorial contest in the state not governed by cliques.

In the legislature of 1867–8 a republican senate held in check a democratic assembly, and few objectionable bills found passage. This was not due, however, to superiority of character among republicans, who had, in a measure, been spoiled by a long run of success, for the democrats were cautiously trying to regain public confidence, and on many propositions they exhibited greater self-restraint than the others, as shown partly in the senatorial choice. Their declaration that they would never submit to the dictates of a negro vote, though savoring of southern sentiment, won so wide an approval that at the presidential election of 1868, when republican voters came forward in special strength to honor a national

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hero, the democrats managed to reduce their majority to a meagre 500, as compared with 18,000 four years previously. The republicans re-asserted themselves in this respect, and continued to give a majority for republican presidential candidates during the next twenty years, although the other party alternated in state victories.

The attempt of the railway to secure Goat island as a terminus roused many even of the republicans, who so far had been the promoters of such roads. By putting forward an anti-monopolist candidate for governor, in the person of Newton Booth, in 1871, they regained confidence, and elected their candidate, together with three congressmen and a large majority in the lower house. The railway nevertheless obtained control of the legislature. The consequence was a split in the party. The seceders, calling themselves independents, although facetiously termed Dolly Vardens, insisted on the necessity of curtailing the power of monopolies, by regulating fares and freights, and devising an irrigation system for the state. So commendable a platform produced a large rally, particularly among the farmers, and the reformers secured a majority in the assembly, and passed several bills in conformity with their views.

Among the results was the election to both the vacancies in the national senate of anti-monopolists, namely, J. S. Hager, a democratic lawyer from New York, prominently identified with California since 1849, and Governor Booth, who resigned the executive post to the lieutenant-governor, Romualdo Pacheco, a native Californian. Booth was an Indiana lawyer who had acquired a fortune in mercantile pursuits in California, together with a reputation for integrity and ability that gained for him high political honors. At the next vacancy the republicans sent to the senate A. A. Sargent, a printer of Massachusetts, who in California became editor,

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lawyer, and also a politician of skill and influence. In 1882 he was sent as minister to Germany, but received so chilling a reception at the aristocratic court of Berlin that he resigned.

In 1875 an additional division of the republican party enabled the democrats to reassert themselves in the election for governor of William Irwin, an editor and college professor from Ohio, who had long sat in the legislature, and in securing two congressmen. During Irwin's tenure of office the working classes resumed the agitation of the collapsed reform party against monopoly and cognate evils in so effective a manner as to procure a decided change in affairs.

The attention of the humbler classes to the growth of capital, and its intrusion in politics and on popular rights, had been first roused by the pressure of hard times. The close of the war and the opening of the railway both tended to undermine a number of manufacturing industries, which had sprung up on the strength of the distance and difficulty of communications with the east. The influx of fugitives during the war, and the return now of the richer portion of them, together with residents bent on visiting and travelling, increased the depression in business. Labor began to clamor against competition, and for shorter working hours, partly with a view to give work to a larger number. For the promotion of these aims trades-unions were formed, which, with numerical strength, acquired political significance.

The cry of competition was directed almost exclusively against the Chinese, whose economic habits and abstemious mode of life enabled them to accept lower wages than would suffice for the white workman, with wife and children to provide for in accordance with the comparatively exacting requirements of American society. They had begun to enter during the glow of the first gold excitement. By 1852 their number exceeded 18,000, and the increase continued until California alone contained fully

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116,000 in 1876. Aliens in race and customs, they found no fellowship among the white people, and their consequent isolation tended to deprive them of public sympathy. The hostility of the Anglo-Saxon miners toward foreigners soon concentrated wholly against the Mongolians, and in 1855 the legislature joined in their persecution by means of oppressive taxes. The class of employers favored them, however, as useful and even indispensable adjuncts for unfolding primary resources and laying the foundation for progressive enterprises. They proved to be more docile and reliable than other laborers, and were accordingly welcomed by manufacturers, farmers, and housewives. Their absorption of a number of leading industries, and competition with white employés, lent strength to the renewed outcry against them, as did the Burlingame treaty of 1868, under which they were accorded equal privileges with the most favored nations on American soil. Congress had so far heeded the appeal of the state as to send a special commission to investigate the trouble, but its report struck against the national tradition of a free country open to all, and if to low whites and blacks, evidently, also, to low yellow races. Nevertheless, congress was induced, partly by demonstrations on the part of Californian workmen to arrange for an amendment of the treaty with China, and to restrict immigration thence. Enough loopholes remained, however, to alarm the anti-Chinese element, and more stringent limitations were attempted.

During the riotous agitation in 1877–8, capital as well as monopoly was seriously endangered by the mob in incendiary demonstrations. A panic in the mining-stock market, attended by a commercial crisis, lent intensity to the feeling against manipulating stock-dealers and mine-owners. Land-owners were denounced for hindering settlement, development, and employment by keeping large tracts from the market. The cultivation of large fields under the easy methods

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permitted by the benign climate and soil of California, operated against regular employment of men, and led to long seasons of idleness and to vagrancy. For this, and more, capital was blamed; and so threatening became the attitude of the rabble at San Francisco, that the vigilance committee, slumbering since 1856, felt it necessary to come forth and subdue the movement. The leader of the incendiaries was an Irish drayman named Dennis Kearney. Finding that intimidations did not answer, he endeavored to perfect the organization of his followers, and bring them together with some more orderly sympathizers, into the workingman's party, which advocated the abrogation of the Chinese treaty, equalization of taxes, judicial reform, and other measures.

Other parties now joined in renewing the demand for a revision of the state constitution. The existing one, copied after remote agricultural states, was declared unsuited to the peculiar climate, resources, and conditions of California. Taxes should be so regulated as to lift them above the whims of a changing and easily corrupted legislature, and so with expenditures, grants, etc. A constitutional convention was accordingly agreed upon, which met in September 1878, with 152 delegates, including 85 non-partisan, 50 workingmen, and 17 republicans and democrats, 35 foreign-born being chosen to prepare laws in an American state!

The influence of the working class is perceptible in several clauses of the new organic law for the protection of labor against capital. A commendable proposition for a property qualification for voters was promptly set aside. The legislature was forbidden to charter roads, lend the credit of the state, grant aid to corporations or individuals, or dispose of water which pertained to public use; special legislation was, in fact, largely restricted. Corporations were so closely regulated in management, taxation, and so forth, and railways so subordinated to a commission for

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watching over charges and traffic, that they raised serious objections, and many capitalists departed from the state. Taxation was applied to all property, according to value, including moneys, credits, bonds, mortgages, and franchises; land cultivated or not was to be equally taxed when in the same grade and position, in order to discourage large holdings, particularly for speculation. The school fund was to be applied only to primary and grammar schools. State indebtedness was limited to $300,000, save in case of war, or by special consent of voters. The election of the secretary of state was assigned to the people. The supreme court was to consist of one chief justice, with six associates, in two departments, elected by the people for twelve years, with a salary of $6,000. County and district courts were replaced by superior courts, one in each county, with one or two judges elected for six years, with a salary of $3,000, San Francisco being assigned twelve judges. In civil cases the verdict of a majority of the jury was admissible, and regulations were added to ensure speedy trials. The government of cities was left almost entirely to their inhabitants, so as to obviate legislative schemes, but thereby they were also more exposed to partisan votes, notably from a low suburban unit class, and to the corrupt ruling of supervisors. Consolidated cities and counties with a population not exceeding 100,000 should have two boards of supervisors. No county or municipality could spend more than its yearly income, save by consent of two-thirds among the voters. The presence of foreigners ineligible to become citizens was declared to be detrimental to the state. The coolie system was forbidden. Eight hours were to constitute a day's work on all public contracts.

The constitution was widely objected to as hampering legislation with too many restrictions; introducing an untried plan of judiciary; favoring non-resident holders of property in taxation; taking away the con-

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trol of railways from a large legislative body, and leaving it to three commissioners, with power to establish rates; many evils which promised to issue from such a constitution were left irremediable. So many doubts rose even among workingmen concerning it that San Francisco, their stronghold, actually rejected it, and the farmers alone, allured by a lighter taxation, passed it by a small majority, and made it the state law. Amendments of the old constitution would have answered better, for the new document failed in its main objects, to regulate corporations and equalize taxation. Bribery, corruption, Chinese, and other ills continued to flourish. Amendments to enforce the control of railways were early introduced, but were rejected by voters. San Francisco likewise refused to adopt any one of the several charters submitted to her, in accordance with the new organic act.

The sway of foreigners and socialists, as impressed on the constitution, roused the republicans to an effort for redeeming the state, and at the election of 1879 they succeeded in installing as governor George C. Perkins, whose biography is given in a preceding chapter of this volume. The democrats and workingmen elected the supreme judges, but the republicans carried the congress delegation, and obtained a majority in the state senate, and practically in the assembly. So prompt a modification of the newly inaugurated state of affairs was greatly due to moneyed influence. The late reconstruction party was practically shattered. Its unthinking element could not withstand the machinations of demagogue instruments, as indicated by the choice for mayor at San Francisco.

The following year the democrats obtained an exceptional though slight majority for General Hancock as presidential candidate, but the republicans divided with them the congressmen, and gained a decided majority in the legislature. They consequently

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selected as successor of Senator Booth John F. Miller, a former state senator of Indiana, who had risen to the rank of major-general during the union war, after which he served as collector of the port of San Francisco, and became president of the Alaska Commercial company. He assisted to carry restrictive measures against the Chinese. Upon his death in 1886 the term was completed by A. P. Williams, a merchant from Maine, and chairman of the republican state central committee. The following year a democratic majority in the legislature replaced him with George Hearst. The senator appointed by the democratic legislature of 1877–8, James T. Farley, a lawyer from Virginia, long in the legislature, and for a time speaker of the house, had been meanwhile supplanted by Leland Stanford, late republican governor, so that the two parties were fairly balanced at the national capital.

In 1881 the republicans were numerically ahead in the legislature; the democrats acquired control nevertheless and disgraced the session by wasting the limited term in useless discussion, so that the governor was obliged to call an extra session, the limitation of which was needlessly exceeded. The following year they affirmed their majority, and managed to squander additional money not long after in a special session for amending the constitution on railway regulations, which ended in nothing; nor was there indeed any shadow of excuse for thus prolonging the session, and causing, without any tangible result, a wanton waste of the public funds.

The presidential election of 1884 called forth the large respectable element, seldom interested in local agitations, which came resolved also to express its disapproval of the legislative proceedings. The result was a marked reversal by a republican majority, which secured the control of the legislature and five of the six congressmen, besides a gain of several San Francisco positions, and a large plurality of votes for

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Blaine, the presidential candidate. Two years later the democrats regained a certain advantage by virtue of a republican split, and elected for governor Washington Bartlett, the first American alcalde of San Francisco, and in 1882–6 one of her most esteemed mayors. He was originally a printer from Georgia, who had founded and edited a number of newspapers in this his adopted state. His death in the following year brought to the executive office R. W. Waterman, whose popularity had obtained for him the lieutenant-governorship on the republican ticket. Five of the congressmen were likewise republican, but in the legislature the other party obtained control.

The régime of Governor Waterman, though not distinguished by any special feature, perhaps for that reason more than any other, gave satisfaction to the community, for a people is never so well ruled as when the touch of the ruler is imperceptible. In his message for 1889 were many excellent suggestions, among others, the abolition of all unnecessary offices and the granting of liberal appropriations for needed improvements.

During the session of 1888–9, numerous measures were adopted by the legislature; perhaps the most important were certain acts amending and supplementing the irrigation laws. Others were for improving the civil code of procedure, for establishing a reform school and a school of industry, with appropriations for other public institutions and improvements. No action was taken, however, on the governor's recommendation that remedies be applied for the suppression of the so-called "tramp nuisance," one growing every year more serious, and calling forth urgent requests from every portion of the state that laws be enacted for its abolition.

I will now give more at length the biographies of some who have helped to raise California to the proud position already attained among the sisterhood of states.

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CHAPTER VII.

LIFE OF ORVILLE C. PRATT.

THE BAR AND JUDICIARY OF THE PACIFIC COAST—NATIVITY AND EDUCATION—AT WEST POINT—LEGAL STUDIES—IN PRACTICE AT ROCHESTER—AT GALENA—MISSION TO OREGON—INCIDENTS OF THE JOURNEY—SHIPWRECKED—SUPREME COURT JUDGE—THE WHITMAN MASSACRE CASE—OTHER TRIALS—THE LOCATION CONTROVERSY—JUDICIAL CAREER IN CALIFORNIA—DECISION—BUSINESS TRANSACTIONS—MARRIAGE—CHARACTER.

ALTHOUGH we must not expect always to find justice in a court of law, particularly if it be a plain case before a jury, yet we may truthfully say that on the Pacific coast are found a full proportion of able lawyers and honest judges. Many there are whose knowledge and correct appplication of the principles of law, and whose lucid method of presenting the most difficult and complex questions, with clearness and fullness of illustration, are worthy of the great legal luminaries whose career in the eastern states has won for them a world-wide reputation. As a rule it is at the bar, rather than on the bench, that we look for the highest order of talent, the annual stipend even of a supreme court judge being less than the amount often earned in a single month, and at times even in a single day, by several of our leading practitioners. But to this there are exceptions; for in the ranks of the judiciary

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[illegible] HISTORY OF THE PACIFIC COAST—NATIVITY AND EDUCATION [illegible] LEGAL STUDIES—IN PRACTICE AT ROCHESTER. [illegible] TO OREGON—INCIDENTS OF THE JOURNEY—SHIP-WRECK—[illegible] COURT JUDGE—THE WHITMAN MASSACRE CASES—OTHER [illegible]—THE LOCATION CONTROVERSY—JUDICIAL CAREER IN CALIFORNIA—[illegible]—BUSINESS TRANSACTIONS—MARRIAGE—CHARACTER.

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there are and have been several who, though assured of a lucrative practice at the bar, preferred from high and most worthy motives, as from a sense of public duty, or to gratify an honorable ambition, to accept such laborious and ill-remunerated positions. Among the more prominent instances may be mentioned that of a former judge of the twelfth judicial district court of the city and county of San Francisco, Orville C. Pratt; and it is no injustice either to the living or the dead to say that in the most essential qualities, whether of a judge or an advocate, in strength of memory, combination and analysis of facts, in power of close, logical reasoning, in command of appropriate language, and in knowledge not only of the law but of men and of the world, he had few superiors among his contemporaries. While introducing to the reader a sketch of his career, it may here be further stated that, although in some respects peculiar, he was one of the earliest and most able judges of the United States territorial, district, and supreme court of Oregon, of which state he was also a pioneer, one of that famous band of whom it has been well said, as of the pilgrim fathers, that they builded better than they knew.

Pratt was born in Ontario county, New York, on the 24th of April, 1819, and received his earlier eduction at Rushville, in that county, where the public schools then ranked among the best in the state. The training thus acquired, extending from the primary to the high school grades, was further supplemented by a course of classics and mathematics at two local academies, and thus, before reaching his seventeenth year, he was not only well versed in those branches, but had become a thorough English scholar. His tastes and ability inclined, however, to the mathematics, in which he displayed considerable proficiency, making himself master of several branches of that science, including those necessary to the study of its highest departments.

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In connection with his school career an incident may be mentioned that will serve to display in its strongest light the confidence and esteem which his ability, zeal, and earnestness of purpose had already won for him in the community. In the winter of 1835, a law having been passed by the New York legislature donating the sum of twenty dollars to all common school districts which subscribed a similar amount toward the nucleus of a school library, after discussing the matter with a distinguished clergyman of Albany, named E. N. Kirk, he so impressed him and others with his clearness and force of argument, as well as his fervid and unselfish enthusiasm in the cause of education, that it was resolved to secure his services as a public advocate. To this end Mr Kirk secured the coöperation, among others, of James Wadsworth of Geneseo—the father of General Wadsworth who fell at Gettysburg—one whose wealth and family connections placed him among the most prominent men in the state. The ability and faithfulness with which Mr Pratt fulfilled his mission, may be judged from the fact that he delivered addresses in each township in the counties of Livingston, Monroe, and Erie, discussing elaborately the entire question, and succeeding in every instance in establishing a good library in each of the several districts. That an inexperienced youth should thus have been selected for a task worthy of a mature and practised speaker, and should have carried it to a successful issue, was a public service to which Pratt looked back with more of becoming pride than to all his forensic triumphs.

Soon afterward he received from President Jackson an appointment to a cadetship in the United States military academy at West Point, which he entered as a member of the class of 1837. In the old time, it will be remembered, such positions were not bestowed as the result of competitive examinations, nor did the members of his family possess any special political influence;

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hence the nomination may be considered as a recognition of the young man's ability and strength of character, and of his promise of future usefulness. He remained at West Point for two years, and ranked, both in conduct and studies, among the first in his class, although for military studies, except when connected with the higher mathematics, he had but little taste. His ambition was to be a lawyer, and to that end he had begun to prepare himself even before his appointment. In the army at that date there was little chance of perferment, the country being at peace, a peace then unclouded by any symptom of the storm which a few years later swept with the fury of a tornado through the fairest portions of the union. For a military man the only prospect was to pass the best years of life at some frontier post, or perhaps to lose it in some petty encounter with savages. Such a career could not satisfy the earnest strivings of his nature; for with his talents and ambition he thought himself fitted for some wider and more useful sphere. Moreover, his father had met with reverses, and being past middle age, would not be able much longer to support his family in comfort. To Orville, as the eldest son, its members would look for aid, and assuredly they must not look in vain. He resolved, therefore, to go forth into the world and earn for himself a name and a fortune, or at least he would attempt it, and that at once. His resignation followed, and thus did his country loose a good soldier, while gaining the services of one of the most able among her many eminent lawyers and jurists. Had he remained in the army he would doubtless have risen to high rank, as did many of his fellow-cadets; among them generals Sherman, McDowell, Reynolds, Hooker, Halleck, Ord, Rosecrans, Lyon, Pope, Buell, and of the confederates Longstreet and Beauregard.

Among his friends and relatives was a lawyer named Samuel Stevens, then one of the leaders of the Albany bar, and at the invitation of this man,

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who had observed his acuteness for the legal profession, he entered his chambers as a student, and was admitted two years later to practise in the supreme court of the state of New York. Then at the age of twenty-one he began his professional career, opening an office in Rochester, where clients were not slow to recognize his abilities.

It was the year 1840, the year of the great presidential campaign, perhaps the greatest that ever occurred in the political history of the United States, when charges of extravagance and corruption were freely preferred against the administration of President Van Buren, who, however, in his last annual message, answered them with becoming pride by declaring the country free from debt. During this canvass Pratt took an active part in supporting the great democratic leader, who was again the nominee of his party, and addressed large audiences in the western counties of New York, thus introducing himself to the public, and acquiring the self-possession and presence of mind essential to political stump-speaking.

By this time he was recognized as a man of strong character and brilliant promise, one whose natural gifts were supplemented by unusual application and power of work. Among those to whom such qualities recommended him, was Fletcher M. Haight, one of the leading practitioners in Rochester, who later came to California, and was made judge. By this man he was taken into partnership, and under the firm name of Haight & Pratt the business was successfully conducted until the former, after the decease of his wife in 1842, to whom he was tenderly devoted, withdrew from the connection and the scene of his affliction.

For most men the position to which he had attained thus early, with a fair practice and prospects of the brightest, would have been sufficient inducement to remain in the city where he was so well appreciated, but not so with Mr Pratt. At that date

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the attention of many men was directed towards the west, as the land where states and commonwealths would spring into being as at the touch of a magic wand. Himself a man of sanguine and fearless temperament, he resolved to be in the van of those daring and adventurous spirits who were already pushing forward into that unknown and mysterious region. But this he could not do at once, since, for the time being, he must live by his profession, and as yet the far west was little better than a primeval solitude.

Toward the close of 1843, therefore, we find him at Galena, Illinois, where he opened an office and speedily acquired a lucrative practice. To this point his fame as a public speaker had already preceded him, and on the 8th of January 1844, at a meeting held on the anniversary of the battle of New Orleans, he delivered an address which so moved the hearts and appealed to the judgment of his hearers as to attract the attention of the most prominent men in the community. In the same year, after the nomination of Polk for the presidency, his services as a public speaker were again in demand; and during the campaign which followed, he ably canvassed several counties in northern Illinois, his speeches attracting the attention not only of the democratic leaders of the state but even of the successful candidate in that exciting contest.

The Texas question and boundary question were the chief issues, involving, as they did, the proposed annexation of Texas, and the controversy then pending with Great Britain as to the possession of Oregon. By his familiarity with the points involved, and the skill and force with which he discussed them, the young lawyer rendered valuable service to his party, and at the same time gained for himself still wider and more favorable recognition.

Perhaps the best evidence of the esteem in which he was held by the community was his election in 1847 to the convention which revised the first con-

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stitution of Illinois. He was one of the youngest, if not the youngest, member of that body, which contained, perhaps, more men of note than had ever before been assembled in any portion of the state. Among them were Stephen T. Logan, the then law-partner of Abraham Lincoln, and David Davis, afterward associate-justice of the United States supreme court, and later president of the senate. In all its deliberations, extending over a session of three months, he took an active part, and especially on questions of suffrage and finance, as to which many of his suggestions were adopted by his colleagues.

After its close he was appointed by W. L. Marcy, then secretary of war and formerly governor of New York, to whom in former years he had rendered service by aiding in the suppression of a local riot in the county of Albany, one of a commission to investigate certain charges against an army officer stationed at Mann's fort on the Arkansas river, and who later became governor of Colorado. He accepted and went there. In support of the charges no sufficient evidence was produced, and soon after forwarding the commissioner's report to that effect, he received at the hands of the courier, Kit Carson, a despatch from the war department, requesting him to proceed to Mexico, California, and Oregon, there to inquire into and report upon certain matters of a confidential nature. He then set forth for Santa Fé, and thence with an escort of sixteen men, furnished by the general-in-command, among them being the adventurous negro, Jim Beckworth whose, name was later given to the Beckworth pass, journeyed to Los Angeles by way of the San Juan, Grand, and Green rivers, over the Wasatch mountains and through the Utah valley and Cajon pass into California. It was well for the expedition that it had as its leader a man of his practical experience and military training; for during the trip were encountered all the dangers and hardships incidental to pioneer days, when from the valley of

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the Platte to the vales of California the journey was one continuous struggle with the obstacles of nature and with hostile savages.

From Los Angeles, where his party first heard of the discovery of gold at Coloma, near the American river, he proceeded to Monterey, and transacted with the United States consul a portion of the confidential business with which he had been entrusted. There he met with generals, or as they then ranked, lieutenants Halleck, Sherman, and Ord, his fellow-cadets at West Point. His business completed he left for San José, where he arrived about the middle of November, and at the request of its leading citizens addressed a public meeting, called to consider the question of establishing a provisional government until congress should take action in the premises. This was the first meeting called to obtain an expression of public sentiment on the matter; the resolutions passed on that occasion were afterward endorsed in San Francisco, Monterey and Sacramento, and were followed by a call for a convention, made by order of the then military governor, General Riley.

From San José he proceeded to San Francisco, or as it was then called Yerba Buena, at that date a village of only three or four hundred inhabitants, with a few score huts and adobe houses clustering around the neighborhood of Portsmouth Square.

It was now the time when the first large consignment of gold was arriving from the mines, and all was bustle and confusion. Men clad in greasy buckskin garments, with pockets filled with gold-dust and nuggets, were to be seen on every street, discoursing to crowds of eager listeners of the fabulous wealth that lay almost on the surface of the ground, and within reach of all. Gambling was in full blast, and the gambling-tables were heaped with gold, of which everyone seemed to possess an abundance, and which was squandered for the gratification of every whim, caprice, and vice, with but slight restraint, and almost

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without sense of responsibility. Merchants were busy packing and forwarding goods to the mines, for which, in the absence of coined money, gold-dust was taken in exchange at $14 per ounce. In a word, the gold fever had now fairly set in, and was destined to culminate in an excitement such as the world has never witnessed before or since.

But with all this Mr Pratt was not concerned. His destination was Oregon, of which territory he had been appointed by President Polk, in recognition of his services as confidential agent of the government, an associate justice of its supreme and district courts. Early in December he took passage for Portland on the barque *Undine*. During the trip an incident occurred which serves to show that he possessed in no small degree what may be termed the genius of observation, which, as Balzac would have us believe, constitutes about all the genius of mankind. After a long and stormy passage, the vessel reached the mouth of the Columbia toward nightfall on the twenty-sixth day of the voyage. There were none on board who were acquainted with the navigation of the river, the entrance to which was and still is the terror even of experienced navigators. Deeming it unsafe to attempt the crossing of the bar at so late an hour, the captain put off to sea until the following day; and meanwhile, after having carefully scanned the mouth of the river and the adjacent coast, Pratt had prepared a small chart of the entrance, and had marked thereon several of the more prominent points, such as Saddle mountain, Point Adams, and Cape Disappointment. On the following day, as the barque neared land, he showed his drawing to the captain, remarking as he did so, "If we were at the mouth of the Columbia last night, we are certainly not there now." The latter paid little attention to the warning, and after some further discussion, Pratt went below. Then came up a storm, and with it an atmosphere so dense that it was impossible to see more than a few rods

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ahead. Soon afterward the vessel struck thrice on a sand-bar, but the third time lightly, and through good-fortune was driven by the strength of the wind into the deep water beyond. At length the captain admitted that he was not at the mouth of the Columbia; he had unwittingly entered what is at present known as Shoalwater bay, his being the first vessel that ever entered its waters.

The ship was temporarily abandoned, and her crew and passengers formed into two parties, one of which set forth northward toward Puget sound, suffering severely from frost and snow, and the other under the direction of Judge Pratt, who was chosen its leader by common consent, followed the coast line to Cape Disappointment, crossing thence in canoes to Astoria, and finally reaching Portland in safety.

At that time the people of Oregon were in a most unsettled condition. A large portion of the able-bodied men had left for the gold mines of California, and in the small settlements there was constant fear of Indian depredations. Late in the previous autumn had occurred the massacre at Waiilatpu, whereby the missionary Whitman and his wife, with eleven others, had lost their lives; and as this atrocious deed then remained unpunished the settlers were in constant dread that at any moment further outrages might be committed. There were no soldiers in the territory, and but the scantiest supply of arms and ammunition. Farms and villages were few and wide apart, and throughout the land prevailed a general feeling of insecurity. Such was Oregon and its inhabitants when Pratt cast in his lot in that territory, and accepted from considerations of the main chance, rather than for its honor or emoluments, the office of associate judge, at a salary of $2,000 a year, an amount less than could be earned on this coast at the time by a mechanic or unskilled laborer, and below the annual income which he could have earned by the practise of his profession in California. He was,

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moreover, the pioneer judge of Oregon, as his colleagues, though appointed, had not yet arrived. The country was newly settled, and its condition such as had never before been experienced. There was not in all the territory a law library, and apart from his own small collection, there were probably not half a dozen law books. Thus he was compelled to decide the legal questions at issue as they came before him, without the aid of authorities or precedents. Few of his decisions were ever appealed from, largely because such a course would be useless, and because his knowledge of the principles of law and his judicial turn of mind inspired a belief in his ability and the desire to do justice.

Toward the close of 1848 General Joseph Lane, the first governor, arrived in Oregon, and in the following March entered upon his duties and organized the territorial government, Judge Pratt and the governor being the only officials appointed by the president, who were as yet at their post. Later in the same month, Chief-Justice William P. Bryant reached Oregon City, where Pratt and the governor resided, and where, through a special act passed by the first legislative assembly, was afterward held the first session of the supreme court of Oregon, and indeed the first judicial tribunal legally organized on the Pacific coast. At that session judges Bryant and Pratt were its only members, and on the meeting of the first legislature the latter administered the oath of office to its members, and helped to set in motion the machinery of government.

Within a few months the chief-justice tendered his resignation on account of ill health, returned to Indiana, his native state, where soon afterward occurred his decease. Meanwhile Peter H. Burnett, who had been appointed associate judge, declined to accept the position, having obtained more lucrative employment in California. Thus for nearly two years, until the arrival of their successors, the powers and duties of

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the judiciary were practically vested in and solely exercised by Judge Pratt, who, during that period, not only held all the terms of court in his own district, but also several of those that should have been held by the chief-justice, and meanwhile organized the circuit and district courts in most of the counties of Oregon.

During this interval he tried many important cases, both civil and criminal. Among them was the famous trial at Oregon City, in May 1850, of five of the Indian chiefs implicated in the Whitman massacre. By one of their counsel, Knitzing Pritchette, who was also territorial secretary, a special plea was entered to the jurisdiction of the court, on the ground that at the date of the massacre the laws of the United States had not been extended over Oregon; and further, that the killing had occurred before the organization of the territory, or of any tribunal having jurisdiction to try the offence, the present one having been created by the organic act of August 14, 1848, a date ulterior to that of the massacre. The court ruled, however, that under the provisions of the act of congress dated June 30, 1834, and other United States laws framed for the purpose of promoting trade and intercourse with the Indian tribes, and preserving peace on the frontiers, declaring all of the territory of the United States west of the Mississippi and not within the borders of any state to be within the Indian country, Oregon must be regarded at the date of the massacre, November 1847, as Indian territory. Moreover, as the treaty with Great Britain in 1846 had ceded to the United States all of Oregon south of the forty-ninth parallel, it followed that under the provisions of the United States laws in force in the ceded Indian territory, crimes committed therein were punishable by the proper United States tribunal, whether established before or after the offence. The facts alleged in the indictment were sufficient to show that a crime had been committed under the laws in force at the

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place of its commission; and the subsequent creation of a court in which the guilt or innocence of the defendants could be determined was immaterial, and could not deprive it of jurisdiction. Such legislation was not in its purpose or effects to make an act a crime which at the time of its commission was innocent, but simply remedial, to enable a previously committed offence to be punished. Exception was taken to this ruling, the trial proceeded, and the men were convicted, and sentenced to be hanged, the day appointed for the execution being the 3d of June. Between the time of their conviction and the date fixed for execution the governor was absent from Oregon City, and, as was rumored, visited the mines near Yreka, in northern California. Thereupon Secretary Pritchette, whose intemperate habits too often clouded his better judgment, announced that, as acting governor under the provisions of the organic act, he would grant a reprieve, pending an appeal to the supreme court at Washington. On this announcement the utmost exasperation prevailed among the people, who had assembled from all the country around to witness the execution. There were as yet no jails in the territory, and the convicted chiefs were kept under guard on an adjacent island, the bridge connecting it with the mainland being held by a detachment of riflemen. It was feared that they might escape if the secretary carried out his intention, and the greatest indignation was expressed at the mere suggestion of such a possibility. In the midst of the excitement the United States marshal called on Judge Pratt for instructions as to the course he should take in case of the secretary's interference. The judge promptly answered, "That as there was no official evidence of the governor's absence from the territory, all proceedings on the part of Secretary Pritchette should be disregarded." On hearing this the acting governor abstained from taking further measures; the execution took place, and the popular agitation at once subsided.

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During the trial, at which from four to five hundred spectators were present, watching the proceedings with intense anxiety, there prevailed all the decorum and solemnity of a religious service; and yet no one, save those who are familiar with the condition of affairs and the tone of public sentiment then prevailing, can realize the interest displayed by the entire community on this memorable occasion. The possibility that the assassins might escape through some technicality was sufficient to arouse a cry of vengeance throughout the land. Had they been discharged from custody, or even had their execution been postponed, they would probably have been hanged, or more likely torn to pieces by an infuriated populace. Then would have followed, by way of retribution, a massacre by the Indians of many of the settlers and their families throughout the Willamette valley, and the scenes that were likely to ensue are beyond the power of language to describe. Through the firm attitude of Judge Pratt in this trying crisis, his coolness and determination, and his quick and clear grasp of the situation, such a catastrophe was averted. In this, as in other instances, it was conceded that he possessed in a marked degree the qualities needed to uphold and enforce the administration of justice among a border community, unaccustomed to the restraints of society and statutory law. Indeed, throughout his entire judicial career, his position was firm, dignified, and fearless, and his entire course of action was not only commended by the people, but emphatically approved by the government.

In those pioneer days the administration of justice in Oregon was marked by many peculiarities. As an instance may be mentioned a trial at Astoria of a man named McGunnigle, who had been indicted by the grand jury for selling liquor to Indians. After being convicted and sentenced by Judge Pratt to pay a fine of $500, and in default committed to the custody of the United States marshal, it was soon afterward

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reported that the prisoner had made his escape. Now it chanced that both the prisoner and the marshal lived and cohabited with Indian women, and were the fathers of several half-breed children. This circumstance, coupled with the speedy escape of McGunnigle, aroused the judge's suspicions, and, as the event proved, not without reason. While, during the afternoon recess of the court, he was strolling through the edge of the woods on the bank of the Columbia, he heard a rustling in the brush near by, and looking in that direction, observed two men cautiously making their way to the river bank, where a canoe awaited their arrival. One of the men was McGunnigle, and the other the foreman of the grand jury which had found the indictment. The judge hailed them instantly and ordered them to stop; whereupon the grand juror took to the brushwood, and McGunnigle, deeming discretion the better part of valor, meekly surrendered, and returning with the judge to the court-room, was remanded into custody until he had paid his fine.

By Judge Pratt was held at Portland in 1849 the first court of admiralty within the present limits of Oregon and California, and during its session the French barque *L'Etoile du Matin*, having been libeled, was condemned and ordered to be sold. Congress having conferred on the judges of the United States supreme court of Oregon admiralty jurisdiction in California, in the winter of 1849–50, by request of the secretary of the treasury, he consulted with the collector of customs in San Francisco as to the frequent violation of the revenue laws, and there, also, assisted in the adjustment of several admiralty cases.

In August 1850 John P. Gains, who was the newly appointed governor, arrived in Oregon, and with him Judge William Strong, the successor of Burnett for the third district; Thomas Nelson, the chief-justice, being delayed until April 1851. Soon afterward began the famous "location controversy" of 1851–2,

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the matter at issue being the selection of the capital, a question which caused intense excitement throughout the territory. From the party which vindicated the rights of the people during this memorable struggle, were early chosen the political leaders of Oregon; and to Judge Pratt, on whom largely rested, as the sequel disclosed, the determination of the legal questions involved, was accorded by the consent of all the credit of coming boldly forward as the people's champion. But to explain clearly the nature and origin of this dispute a brief digression will be necessary.

In 1844 it was enacted by the then provisional legislature of Oregon, that the statutes of Iowa, passed at the first session of its legislature in 1838 as amended in 1843, together with the common law of England and the principles of equity, should become the laws of the territory, so far as the former were compatible with the conditions and circumstances of the country. Of the revised statutes of Iowa, several copies had been brought into the country by the immigrants of 1844–5; and at the first session of the territorial legislature held in 1849 an act was passed whereby seventy-two of these Iowa statutes, afterward published in the form of "blue books," were declared to be the laws of Oregon.

In the following year the latter territorial act was publicly declared by the then United States district attorney, Amory Holbrook, to be void, on the ground that it conflicted with a clause in the organic act which provided that, "to avoid improper influences which may result from intermixing in one and the same act, such things as have no proper relation to each other, every law shall embrace but one subject, and that shall be expressed in the title." By Judge Pratt, while he was the only judge in the territory, no attention was paid to Holbrook's dictum; but by the new officials a different opinion was held, and during the next session of the legislature, which was

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compcsed largely of democrats, a fierce antagonism between its members and the newcomers, was developed. On the 1st of February 1851 an act was passed by that body to provide for a selection of sites for the public buildings of the territory, and the seat of government was located at Salem, with the penitentiary at Portland and the university at Corvallis. Two days afterward the governor forwarded a message declaring the act invalid on the ground that it embraced more than one subject, and was obnoxious to the inhibitions of the organic act. He must therefore refuse to sanction the expenditure of the money appropriated for the erection of public buildings.

Although the governor did not possess the veto power, his decision had virtually the effect of a veto, and was deeply resented by a majority not ouly of the members of the legislature but of the constituencies which they represented. Moreover, it was generally believed that his interference was caused, not on the ground alleged, but by his reluctance to abandon Oregon City, where he was already comfortable quartered, for the remote village of Salem. Before the next session of the legislature the subject was widely discussed, and it soon became evident that a majority of the members would assemble at Salem, which was then much nearer the centre of population than Oregon City; for at that date nine-tenths of the entire inhabitants were settled in the Willamette valley. It was also understood that judges Nelson and Strong, with most of the federal officials, including the governor, would assume the location act to be invalid in advance of its adjudication, regard Oregon City as the seat of government, and officially act accordingly.

Judge Pratt was the only one who expressed a contrary view, insisting that the act was presumptively valid, and should officially be so treated until it was otherwise adjudged. By him it was urged that the location of the seat of government was exclusively in

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the hands of the legislative assembly, as declared in section 15 of the organic act, which provided that "the legislative assembly of the territory of Oregon shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the legislative assembly shall proceed to locate and establish the seat of government for said territory, at such place as they may deem eligible." Thus it was clear that, while the governor could convene the first session of that body at whatever place he chose, as he had already done, he had no authority thereafter in locating the territorial capital. The three departments of government, legislative, judicial, and executive, were entirely distinct and independent of each other, and each must look for the measure of its respective powers to the express provisions of the organic law. Each one, while sovereign within its own province, must keep within its proper sphere, and in case of a conflict between them, whether caused by a disregard of the organic law or through usurpation by one of authority belonging to another, the rightful remedy was not vested in the executive, but in the judicial power, when acting as a court at a legal time and place. The organic law was the basis of all legislative and executive powers, and if its imperative provisions were disregarded in any act of the legislature, such act could and would be determined to be null and void on adjudication. But because some particular law was deemed null and void by one or more of the judges, who did not constitute a tribunal with legal authority to pass upon it, such opinion did not make it so, for only through the judgment of a competent court could its nullity be adjudged.

Into this controversy all the judges were drawn, and from it arose many complications, through the interference by judges Strong and Nelson with the process and judicial powers of Judge Pratt, so that

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finally it became almost impossible to maintain the rightful authority of either of the courts or their judges. On the 1st of December 1851 judges Strong and Nelson assumed to open and hold a term of the supreme court at Oregon City, in advance of any adjudication of the invalidity of the location act, which with other laws required such session to be held at Salem, the then territorial capital. At the same time the members of the legislature, with five exceptions, under the presumption of the validity of the location law, opened their session at Salem, and soon afterward, in compliance with a legislative resolution and request, Judge Pratt delivered an official opinion on the legality of the location act, in which he ably sustained it, declaring that the place of their then session was legal, and that all acts which might be passed, if in accordance with the organic law, would be valid so far as the place of enactment was involved, because the act locating the territorial seat of government was presumptively valid; that it was not void, and could be only so treated after being legally so adjudged, which had not been done. By the other judges a different opinion was, of course, expressed, and meanwhile the governor gave notice that he would pay no attention to the enactments passed by the "Salem legislature." Thus a state of confusion and uncertainty prevailed throughout the territory, and it was generally feared that scenes of disorder and lawlessness would ensue.

In order to prevent judicial interference with the measures of the legislature, an act was passed limiting Judge Nelson's district to the county of Clackamas, and so appointing the several terms of the district courts and the judges to hold them, in all the counties south of the Columbia river except Clackamas, that all of them came within Judge Pratt's district. Judge Strong's district, however, was left north of the Columbia. When, in disregard of this act, Judge Nelson afterward repaired to Salem, in Judge Pratt's

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new district, for the purpose of holding court in Marion county, he was met by a committee of its citizens, who informed him that a session had just been holden by Judge Pratt, in conformity with law, and that if he disregarded it, the town would neither afford him food nor shelter. Thereupon the chief-justice promptly left, and returned to Oregon City.

Soon afterward a memorial to congress was passed by the legislative assembly, expressing in the strongest terms the popular view of the controversy, earnestly deprecating the appointment of strangers and non-residents to federal offices, and requesting that the people of the territory be allowed to designate by popular vote, and from the residents of Oregon, their governor, secretary, and judges. This memorial was approved by the judgment of the people, and did much to influence them against "imported federal officials," as the men were termed who had opposed the location act. By almost the entire community this act was upheld, not only on legal but local and personal grounds; and, in fact, it became practically valid through the sheer force of public opinion, largely created, as was conceded at the time, by the ability, tact, and reputation of Judge Pratt. Finally, on the 4th of May 1852, congress removed all doubts on the subject by passing almost unanimously an act approving and ratifying the legislative location of the territorial capital at Salem, together with the subsequent session of the legislature there, and the laws enacted by it. Soon afterward judges Nelson and Strong were removed from office by the president, and to Judge Pratt, who was the champion of the legislature and of the location act, and although the youngest of the officials had taken a leading part in the contest, was awarded the palm of victory.

Thus we have traced the leading incidents in Pratt's official career in Oregon, from the time when the first court established in that territory, or even on the Pacific coast, under the authority of the United

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States, was held by him at Lafayette, the county seat of Yamhill, in September 1849. There lies before me the old paper docket of the circuit court of the provisional government for the county, with the disposition then made by him of the several cases which he found thereon, entered in his neat and striking hand in the "Remarks" column of the docket, and signed "O. C. Pratt, judge." From that date until the spring of 1853 he served as judge in Oregon with ability and distinction.

The value of his services to Oregon was not in the number of cases tried before him, nor the amount involved therein, so much as their character and the circumstances under which they arose and were disposed of. His judicial career covered a formative period in the history of the country, when precedents were not so much followed as made. In this work of blazing the line and marking the corners of the law, in a yet unformed community, he did much during his few years on the bench and did it well.

With a large and varied knowledge of human affairs and pursuits, and an active, analytic mind, he readily comprehended the merits of a controversy, and had a correct perception of the facts involved in it and of their relative value. For want of this clearness of perception many decisions of learned judges fall short or wide of the mark; but Judge Pratt being usually right in his premises, seldom erred as to the law arising thereon.

His industry and punctuality in the discharge of his public duties, as well as in his private affairs, were exceptional. His court, however plain or primitive the room or its appointments, would compare favorably in dignity and decorum with any in the land. In this respect the state of Oregon owes him much. The example has borne good fruit, the evidence of which may still be seen in the deference paid throughout the country to judicial tribunals and proceedings.

In person and manner he was extremely neat and

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polite, and his demeanor generally was in striking and favorable contrast with that of many public men in new countries, who seem to think that the road to popular favor lies through coarseness and vulgarity.

As a lawyer he had a vigorous grasp on the elementary principles of the science of the law, which enabled him without books or the suggestions of learned counsel, rightfully and readily to solve the often singular and original problems involved in the application of established rules and maxims to the new and unprecedented social and economic conditions and combinations then existing in Oregon.

As a token of the appreciation of his judicial career in Oregon, it may be mentioned that in 1886 the regents of the university of Oregon conferred on him the honorary degree of doctor of laws—the only honorary degree that has ever been bestowed by that institution.

In his annual report for that year the president of the board of regents remarked that "the propriety of conferring the honor was so apparent as to be generally recognized and acknowledged," and added, "speaking for myself, I do not hesitate to say, that Oregon is much indebted to him for the diligent and faithful discharge of the duties of his high office, at a period when foundations were being laid and precedents established, and the firm and impartial hand with which he administered the law and upheld the dignity and authority of the courts of justice, in the formation period of our career as a political and social community."

Ever since his arrival on the Pacific coast Pratt had conceived a strong preference for California as a permanent home, and it was only the duties of his office and private interests which had so long delayed his change of residence. By his friends—and he had formed many strong and lasting friendships among the most prominent of Oregon's inhabitants—he was urgently importuned to abandon his purpose; but in

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vain their entreaty, as well as numerous promises of many of the most influential men to do all in their power to secure his election as United States senator when the territory should be admitted into the union. In June 1856 he removed to San Francisco, where he formed a partnership for three years with Alexander Campbell, senior, who had been a leading practitioner in the courts of Oregon over which Pratt had presided. The firm soon acquired an extensive and lucrative practice, more especially in land cases, for the conduct of which, as will presently appear, one of its members was especially qualified.

At the end of the copartnership the connection was dissolved, and Mr Pratt was afterward elected judge of the twelfth judicial district court for the city and county of San Francisco and the county of San Mateo. During his six years' tenure of office he was called upon to decide a large number of important cases, involving great and varied interests; and in his decisions litigants generally acquiesced, knowing that his determinations were founded on a careful and conscientious study and interpretation of the law, while his reputation for integrity and scrupulous regard for justice was beyond dispute. Perhaps his ability was displayed to the best advantage in the decision of land cases, in which his powers of analysis and elucidation in weighing and applying every point of the law and evidence appropriately, thereby dispelling the vague uncertainty then attached to most land titles, caused his decisions to be regarded by many as classics of the law in such cases.

Of these decisions one or two instances must suffice. In the case of Mayo *vs.* Andrews et al., the action being to recover certain lots in Sacramento city, and the source of title through which both parties claimed being two grants made to John A. Sutter by the Mexican government, and afterwards confirmed by United States patent, the questions decided by him involved and settled the validity of the Sutter title

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to more than a thousand homes in the city of Sacramento and its vicinity. It was rendered on the 14th of June 1869, and was regarded by the legal profession and the general public as having removed a cloud which had long obscured and impaired Sacramento titles, to the great injury of owners. Its remarkable clearness of statement and cogency of reasoning were observed and conceded by all interested. As to the description or location of the granted lands—one of the main points at issue—he thus expressed himself: "That which is particularly referred to and set forth as a description of lands in a grant or patent always controls; and if any repugnance is found between a general description and a particular one, the former must yield to the latter. . . This particular description, although found in documents referred to and distinct from the grant itself, nevertheless forms a part of it, and must be looked to for knowledge to determine what was intended to be conveyed."

After defining the limits of the grant, he continues: "In construing a description of land delineated on a plan or map, which has marked thereon fixed and determined objects, together with indicated courses and distances, determinable only by measurement or mathematical calculation, it is obvious that what is fixed and determined must control that which, not being settled, remains indeterminate. In other words, visible objects on lands, when named or delineated as calls in descriptions thereof, must of necessity control all supposed points, lines, courses, and distances. Of such are indicated parallels of latitude, for being, as they are, imaginary, and only accurately determinable as distances from the equatorial line as their base by correct astronomical observations and computation of numbers, they may or may not be properly delineated on a plan or map in any given case, where referred to as means to admeasure any portion of the earth's surface. Therefore, whether such lines so laid down are true or otherwise is entirely immaterial, provided

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always that the fixed calls or monuments in a description are certain and sufficient to locate the described lands, independently of the named and supposed lines of latitude." Thus clearly did the judge lay down principles which set at rest the title to property valued at many millions of dollars.

In the case of W. W. Johnston et al. *vs.* The Board of Supervisors of San Francisco, the proceedings being in equity, he rendered a most important decision on pueblo lands. It was admitted that the title to the lands was vested in the municipal corporation, over the affairs of which the defendants exercised certain limited powers, and the questions mainly to be determined were whence and how such titles became so vested, and to what uses, as well as where the power was then lodged, and the means whereby it could be rendered effectual. After tracing the origin of these titles to its source, under the Spanish régime, together with the purposes for which such lands were set apart, or in a word, the pueblo system, as it existed in pastoral California, the judge said: "The system did not contemplate, because not necessary to accomplish its objects, that the fee or absolute title to any part of such lands should ever be vested in the pueblo, or town, in its municipal or corporate character; but it was intended by the laws on that subject that the proper authorities of the town should be clothed with the power, in the nature of an agency from the sovereign power of the country, on proper application, to be made by such of the inhabitants of the town as wanted them, to grant house lots, as well as sowing or planting lots, within the proper limits, in private proprietorship, if such applicants should be found to be suitable persons, and in need of what was solicited. Like powers of alienation were also retained, and often exercised over the granting of house lots and planting grounds by the national sovereign, and by such others to whom such sovereign chose to delegate the authority. . . Power, however, to alienate either the lands

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designed for municipal revenue, or the pleasure grounds of the town, or the commons for pasturage by its inhabitants, never was conferred upon the authorities of the pueblo."

After some further comments he continued: "From all this it manifestly results that the absolute title or fee, with the exclusive power of alienation, in and to all the ungranted lands embraced within the claimed limits of the pueblo of Yerba Buena immediately previous to the treaty of cession of May 31, 1848, remained and was in the Mexican nation. Its rightful successor in that behalf, after such treaty, became and was the United States, because the latter succeeded alike to the national sovereignty in California as also to the fee of all lands therein, together with the power of disposition which was at that date vested in its predecessor." He then referred to the acts of congress, passed in 1864 and 1866, whereby the government of the United States divested itself of the legal title to all the lands in question so derived from Mexico. "In virtue of them," he said, "all the right, title, and interest of the United States passed to the city for the use and upon the trusts in each of them respectively named. No further action by the government or its officers in such case was necessary to pass the title, since such congressional grants passed it as completely as a United States patent."

In the libel suit of Downs *vs.* Fitch, and in McCarty *vs.* Hayes, actions for slander, the judge displayed in his charges to the jury a clear and comprehensive grasp of the law of libel as well as of slander, and of the legal questions involved. In the case of Charlotte L. Brown *vs.* the Omnibus Railroad company, he delivered a most able and elaborate decision, explaining the principles of the common law, which gives to colored persons the same right to avail themselves of public conveyances as is granted to others. This decision attracted no little attention throughout the eastern states, was universally approved by the more

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enlightened and progressive journals, and was made the subject of special reference, with complimentary allusions, by Charles Sumner on the floor of the United States senate.

While on the bench Judge Pratt's demeanor was marked by a firm and quiet dignity, that repelled all attempts at levity or undue familiarity; at the same time he won and retained the respect and good-will of the legal fraternity. Among his other qualifications was the ability to turn in a moment to any page of the testimony while trying a case, or even while rendering an oral decision, when any question of fact was disputed by counsel; and it came to be generally conceded that the judge's statement of the testimony could be fully relied upon. Whenever it happened that counsel became restless on hearing that the case was being decided against him, and interrupted the judge by calling his attention to a supposed mistake in the citation of facts, the latter would quietly remark: "The court reporter will please turn to his notes and read the portion in dispute;" and when that was done, it was found that the judge's statement was absolutely correct. This became so fully recognized among those whose practice lay in his court that when some inexperienced attorney arose, to protect, as he thought, the interests of his client, the bar would quietly smile, in anticipation of the discomfiture which was to follow. But perhaps that which won more than all else the respect and admiration of its members was the ease with which he reached the very pith and marrow of the subject-matter before him, expressing his views in clear, terse, and comprehensive language, dissecting the case, and presenting each portion of it in the clearest light, and thus giving form and precision to what was before a collection of disjointed fragments.

While as judge and jurist Pratt won for himself fair distinction throughout the Pacific coast, he has also manifested in his business transactions and in his choice of investments qualities of no

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common order. Perhaps one of the best instances of his ability in this direction was displayed during his earlier career in Oregon, when, by a single well-timed stroke, he cleared the sum of $40,000, and thus laid the foundation of the ample fortune which he afterward accumulated. During a trip from Portland to San Francisco in company with Captain Crosby, it chanced that a discussion arose as to what would be the probable price of lumber on their arrival in the latter city. Pratt suggested that a cargo should be worth at least twenty-five dollars a thousand. "I wish you would guarantee me that figure," replied his companion. "Well," rejoined the other, "there is no reason why I should guarantee you anything, but it seems to me—and here he gave his reasons—that lumber ought to be worth there when we arrive fully twenty-five dollars a thousand." After some further conversation Crosby asked whether he would purchase from him the cargo on board when laid down in San Francisco at twenty dollars a thousand. "Yes," said Judge Pratt; and thereupon a contract to that effect was drawn up and signed by both parties. On reaching her destination the vessel was boarded by Captain Folsom and W. D. M. Howard, the former of whom, as purchasing agent for the United States government, offered him $250 a thousand for the cargo. It was declined, as was also a still higher offer made by Mr Howard, and the lumber was finally sold at $400 a thousand.

With a portion of the profits he afterward built at Oregon City, in partnership with one McLelland, a vessel which was employed in the lumber trade, one of her cargoes selling in San Francisco for $450 a thousand. Another craft he chartered in the same city at an early date, and loading her with cooking-stoves, blankets, and boots and shoes, he sailed for Portland, where, these articles being scarce and in demand, he disposed of the cargo at a handsome profit. Thus he took advantage of opportunities as

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they occurred, although his fortune was by no means of sudden growth, nor was it in any sense gained by the hazard of speculation. On the contrary, it was acquired by judicious investments, and by years of unremitting attention to his business affairs, while at the same time burdened with the duties of his arduous profession.

Soon after his removal to California, he invested $55,000 in the purchase of the Aguas Frias rancho, consisting of six square leagues of rich alluvial lands in Butte and Colusa counties, and now forming a most valuable estate. In earlier years this rancho was devoted principally to stock-raising, but later was placed under cultivation, mainly of wheat. On it are nearly one hundred miles of fence, with suitable residences and barns for tenants, and other improvements. Most of the property still remains in possession of the present or former members of his family, and yields a liberal revenue. When Pratt took possession in 1859 there were on the tract many settlers from the western states, where holdings were usually limited to 160 acres. By them the owners of large Mexican grants were regarded as usurpers and swindlers, and they were apt to settle upon any land which they found vacant, with little regard to its real ownership. Hence arose serious difficulties, and not unfrequently bloodshed. But through the kindly treatment and consideration which he extended to the squatters no such trouble occurred on Judge Pratt's domain, and finally his title and right of possession were conceded without dispute.

In other portions of California, and especially in San Francisco, Pratt also made considerable investments in real estate, among them being the location on which stands his residence on the southeast corner of Jones and Sutter streets. Here, with abundant means not only to provide bountifully for those who are bound to him by the ties of marriage and consanguinity, but also to indulge the generous

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impulses for which he is universally noted, he lived surrounded by his family, his home being embellished by some of the choicest specimens of art, and his library well supplied with standard works of literature.

In 1877 Orville Pratt married the daughter of Dr Green, a former New York physician, a woman of refinement and culture, amiable and sympathetic, and of whom it need hardly be said that she is much esteemed in the Pacific coast metropolis, as well as in New York city, where she was born and reared. In Orville C., their only child, are reproduced all the physical and mental characteristics of the father, and of this boy, now a youth of some six summers, the father is deservedly proud. In the society of his family and his books the later years of his life were passed, undisturbed by the cares and anxieties of business or profession. In the mean time he made an occasional trip to Europe, as, like all other men with strong powers of observation, he was fond of travel.

In politics Judge Pratt was a persistent and zealous democrat, though never in an intense partisan sense. On the outbreak of the civil war he at once declared his devotion to the cause of the union, identifying himself with the Union league, and contributing without stint to the sanitary and other funds.

In religion he respected and tolerated all Christian creeds. A life member of the Society of California Pioneers, he subscribed liberally and without distinction to many social and charitable organizations which, as he considered, tended to the welfare of society. But not alone on these was his bounty bestowed. Many were the instances, especially among his fellow-pioneers, where he befriended those overtaken by age or adversity, though none are probably aware of it, save the recipients of his charity.

Up to his seventy-second year, with mind and body but little impaired by the touch of time, the judge

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still displayed all the attributes of a vigorous and well-preserved manhood. Somewhat above medium height, and with a compact and well-developed frame, broad-shouldered, and with ample girth of chest, none but those who knew him would believe that he ranked almost among our septuagenarians. His upright carriage and firm, elastic step belonged rather to a man of half his years. In his regular and finely chiselled features were portrayed the strength of will and firmness of purpose, the intelligence and force of concentration, and, in a word, the power which raised him from a comparatively obscure position in life to a foremost place in the community of which he was so distinguished a member. The dignity of deportment which he displayed on the bench was carried into private life, though without a trace of the coldness and austerity which too often characterize our successful men. As to the part that he played in the early history of Oregon and California, the reader will judge for himself from the biography which has now been laid before him. It is of such biographies that, in its truest sense, the history of a state or a nation mainly consists; for apart from the lives of our greatest men there is little worthy of record. On the roll of Oregon's pioneers are others who have achieved the highest honors on the bench, at the bar, in the mart of commerce, and in the halls of legislation; but there are none whose career has been of greater service in laying broad and deep the foundation on which generations yet to be shall rear the superstructure of a great and flourishing commonwealth.

After an illness of a fortnight, Judge Pratt died at San Francisco, October 24, 1891.

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James A. Waynire

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CHAPTER VIII.

LIFE OF JAMES ANDREW WAYMIRE.

[illegible] Parentage—Migration to Oregon—Early Career—Military Record—Reporting—Law Practice in San Francisco—[illegible]—The Veterans' Home—Wife and Children—Residence at Alameda—Tastes and Perceptive [illegible].

[illegible]s a man thinketh, so is he. But [illegible] t[illegible]'s thinking—his education, his [illegible]. To [illegible]me extent, it must be admitted; [illegible] sta[illegible]ng, he is what he was born, [illegible] Scientists tell us his traits [illegible] in the first microscopic cell in [illegible] which h[illegible] visi[illegible]g began.

James Andrew Waymire is descended from stu[illegible]dy [illegible] John Rudolph Waymire, of Saxe-Weimar, an [illegible] rank in the military service of Germany [illegible] about 1732 emigrated to America in order to [illegible] his religious opinions without interfer[illegible]ce by [illegible]h or state. Landing in New York, he [illegible] settled in North Carolina, contributing to the po[illegible]ion of the new country eight boys and s[illegible]even [illegible]. These young Waymires, after the fashion [illegible] families, scattered through the reig[illegible]ering [illegible]ts, some of them finding homes in Pennsyl[illegible], but more of them in Ohio, near the present [illegible] of Dayton, where their descendants are found [illegible] large numbers. Stephen K. Waymire, father of J[illegible]s A. Waymire, was of the Ohio branch of the fa[illegible].

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James A. Waynick

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CHAPTER VIII.

LIFE OF JAMES ANDREW WAYMIRE.

ANCESTRY AND PARENTAGE — MIGRATION TO OREGON — EARLY CAREER — MILITARY RECORD — REPORTING — LAW PRACTISE IN SAN FRANCISCO — SUPERIOR COURT JUDGE — THE VETERANS' HOME — WIFE AND CHILDREN — RESIDENCE AT ALAMEDA — TASTES AND PROCLIVITIES.

As a man thinketh, so is he. But what governs the man's thinking—his education, his environment? To some extent, it must be admitted; but, notwithstanding, he is what he was born, not what he was made. Scientists tell us his traits existed in his very atoms—in the first microscopic cell in which his visible being began.

James Andrew Waymire is descended from sturdy old John Rudolph Waymire, of Saxe-Weimar, an officer of rank in the military service of Germany, who about 1732 emigrated to America in order to enjoy his religious opinions without interference by church or state. Landing in New York, he finally settled in North Carolina, contributing to the population of the new country eight boys and seven girls. These young Waymires, after the fashion of other colonist families, scattered through the neighboring settlements, some of them finding homes in Pennsylvania, but more of them in Ohio, near the present city of Dayton, where their descendants are found in large numbers. Stephen K. Waymire, father of James A. Waymire, was of the Ohio branch of the family.

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The maternal grandfather was James Gilmore, a Virginian of Irish extraction, whose father fought in the revolutionary war. The son also fought under General Jackson at New Orleans. He married Mary Petit, of a French Huguenot family, and followed Daniel Boone into that beautiful wilderness,

> Where wild Ohio's mighty flood
> Rolled through Kentucky's twilight wood,

which became the dark and bloody ground where perished many brave men and women. But James Gilmore survived the pioneer struggles, and afterward removed to the frontier of Missouri, where he owned a farm and a grist mill and where his daughter Mahala E. Gilmore met and married Stephen K. Waymire, a carpenter and farmer, the two settling on 160 acres on the Missouri river, where later was St Joseph, a flourishing city, covering the Waymire acres with streets of solid business blocks.

Here James A. Waymire was born December 9, 1842. It happened that the young family, with their relatives on both sides, were directly in the path of the Oregon pioneers, who, with large donations of land in prospect, were marching westward annually to settle the boundary question with Great Britain by actual occupation of the Columbia river, and to found an empire with a water-front toward China. Stephen K. Waymire, and his brothers Frederick and John, with their several families joined the large migration of 1845; but Stephen was destined never to reach far Oregon, being killed by a fall from his horse soon after crossing the Missouri river, his widow and son returning to St Joseph.

However, James Gilmore, the father of the widow, in 1852 followed his relatives and neighbors to the Pacific slope, bringing with him his daughter and her son, together with a large family of sons and sons-in-law. The boy enjoyed the journey, and although but ten years of age kept a journal of its events. His grandfather settled in the Umpqua valley, near Rose-

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burg, with others of the immigration of that year, which being of an intelligent class, soon erected schools and churches. Of the former young James was a constant and industrious attendant, and the long winter evenings, when the farm "chores" were done, were spent in the society of such books as *Plutarch's Lives*, *Pilgrim's Progress*, the historical works of Hume, Rollins, and Gibbon, and the standard poets and essayists—often read late at night by the cheap but brilliant light of blazing pine knots. Nor was this studious habit simply one of recreation. The lad read with map and note-book at his elbow, thoroughly digesting what he intellectually devoured. At fourteen years of age he wrote quite cleverly both prose and verse, and being ambitious, was unwilling any longer to remain dependent upon his relatives for maintenance.

His first venture as a bread-winner, at this age, was in chopping cord-wood, and although not large for his years, at fifteen he performed the labors of a man, in the harvest field, or at making rails. This hard work did not interrupt the intellectual pursuits which were the delight of the young student, who contrived before he was seventeen to acquire a fair knowledge of Latin, Greek, and mathematics. His habit of note-taking led him to short-hand writing, in which he became an expert. In the mean time he had acquired some personal property, which, in consonance with his taste, included a horse and a gold watch. Before he was eighteen he worked as a school teacher at fifty dollars a month, "boarding round."

This climax to youthful aspiration was reached in 1860, which was the year following the admission of Oregon to the union, and the first in which the Oregon electors could vote at a presidential election. For this reason, but chiefly on account of the agitation of the question of more slave territory, the canvass for presidential candidates was unusually warm. Young

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Waymire's uncle Fred was known as the war-horse of democracy in the webfoot state, and the family generally were imbued with the political views of the men who had fought under General Jackson at New Orleans, and had an abiding horror of a "free nigger." But the careful student had read history to little purpose if he had not discovered that slavery benefited neither master nor servant; and, although not old enough to vote, he was not too young to make republican speeches, which he did with a contagious zeal. He assisted in reporting the proceedings of the Oregon legislature, at the session which elected E. D. Baker to the national senate, and at his suggestion began to read law; but his heart was fixed on a course at Harvard, for which he must earn money for the attendant expenses; and to this end he resumed teaching.

But now occurred an interruption. The secession of the southern states had precipitated the country into a civil war, and it was a question of the integrity or dissolution of the union. On the Pacific coast there was something more to be met; it was, Shall there be a separate Pacific slave-holding republic? To meet the exigencies of the case required pluck as well as patriotism. The people were called together in mass meetings, which were addressed by union men, Waymire taking the rostrum with older speakers. Then came the news of disaster on the bloody field of Bull Run, and the ordering east of all the regular force on the Pacific coast except a few officers left to instruct volunteers in their duties.

There were at this time numerous hostile Indians on the northern, eastern, and southeastern frontier of Oregon and Washington, which had required several forts and garrisons for its protection. To leave this vast extent of territory defenceless would be to invite Indian as well as foreign aggression. A call was made for a regiment of cavalry to be taken into the service of the United States. The young men of

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Oregon, inspired by the hope of being in their turn called east to fight the battles of their country, cheerfully offered themselves. Waymire, who might have received a commission, conscious of unfitness for command, enlisted as a private in the 1st Oregon cavalry on his nineteenth birthday, determined to learn soldiering by actual experience. He was rapidly promoted to a second lieutenancy, and had enough of marching and fighting to stimulate him to a study of arms as a profession, which study he prosecuted, together with the law, during the winter of 1862 at Walla Walla and 1863 while stationed at The Dalles as adjutant of the command. By a vigorous campaign during the winter of 1863–4, in which he was aided by a company of miners under the lead of Joaquin Miller, afterwards famous as the "Poet of the Sierras," he pointed out the way to conquer a lasting peace with the Indians of southeastern Oregon. This pioneer winter campaign in which the Indians were forced to make a stand, and after a long and hotly contested fight were defeated, though outnumbering the whites ten to one, demonstrated that in winter the Indians could not escape our troops, and thereafter the policy which proved successful under General Crook was adopted, of attacking them in winter. For these services he was complimented in general orders by General Benjamin Alvord, the commanding officer. In 1864 Lieutenant Waymire assisted, at the request of Governor Gibbs, in organizing a regiment of infantry. After the fate of secession had been determined by the fall of Atlanta, he resigned and resumed his law studies, at the same time acting as private secretary to Governor Gibbs. In 1867 he was tendered a commission as second lieutenant in the regular army, and believing that an increase in the service gave promise of rapid promotion, accepted, passed a highly creditable examination, and was assigned to duty as quartermaster and commissary at Camp Lyon, Idaho, General Crook being in command of the

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district. By close attention to his duties he greatly reduced the expenses of the garrison. In 1869 he was promoted to first lieutenant; but, finding that congress was reducing the army, cutting off any reasonable hope of reaching the desired rank short of a lifetime, he resigned, and continued the study of the law without interruption except to act as reporter for the Sacramento *Union* in the state senate of California during the winter of 1869. In 1870 he was admitted to the bar by the supreme court of Oregon, and commenced practice in Salem; but in 1871–2 again consented to act as reporter for the *Union;* and, as this was the session when the codes were adopted, he became familiar with them, as well as acquainted with leading lawyers and other chief men of California, which led to a resolve to practise law in this state. In May 1872, the California supreme court appointed him phonographic reporter of its proceedings, which position he held for three years. This also was instructive practice. From his notes and the records he analyzed arguments and prepared reports of all the cases decided, which were subsequently embodied in volumes 41 to 49 of the supreme court reports.

In 1875 Mr Waymire resigned his office of reporter and commenced the practice of law in San Francisco, to which city he had removed the previous year. His industry, thoroughness, and integrity soon won him the respect of a bar as brilliant as any city of its population can boast, and his practice embraced a wide range of legal propositions. In 1877 he was employed by General Meyers, consul-general to Shanghai, to prepare charges against George F. Seward, minister to China, Seward having procured the suspension from office of the consul-general for having reported certain irregularities in office. Mr Waymire examined the evidence, which was chiefly documentary and very voluminous, and prepared a brief, which Meyers placed in the hands of the distinguished law-

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yers Matthew Carpenter and Robert Ingersoll, to prosecute before congress. The result, after a tedious contest, was the recall of Seward and the abandonment of the impeachment proceedings.

A case in which Mr Waymire was engaged, that of Barton *vs* Kalloch, involved the construction of the constitution as to the time of holding elections. Other important cases in his practice were that of the People *vs* Houghton, in which the supreme court declared a swamp land act to be unconstitutional; that of Mohrenhaut *vs* Bell, which involved the title to 26,000 acres of land in Sonoma county; that of the South Mountain consolidated mining company, in which he represented the creditors in an application for an assessment of $300,000 on the stockholders; that of the People *vs* Parks, in which the drainage act was declared to be unconstitutional, and nearly a million dollars saved to the state; that of the San Francisco gaslight company *vs* Dunn, in which the city's contract with that company was declared void; and that of the Pioneer woolen factory *vs* Dunn, which involved the validity of the Bayley ordinance, providing for the annual payment of a large sum for water by the city. Of these cases, the People *vs* Parks is the most notable. A law had been passed by the legislature, levying a tax of five cents on the $100, for the purpose of constructing dams to interrupt the flow of débris from the mines worked by hydraulic power. It was sought, at a subsequent session, to repeal this law, but without success. It was then several times attempted to get the question of its constitutionality before the supreme court, but the effort failed on questions of practice, until at last the question was squarely presented in the case above quoted, when the court declared the act unconstitutional upon a point raised by Waymire that the act, in attempting to confer upon executive officers the power to form drainage districts, involved a delegation of legislative functions, and was therefore void. The

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débris question in its different forms was one which concerned the agriculturists of the state in opposition to the owners of hydraulic mines, and was hotly contested in the legislature during several sessions while waiting for the opinion of the supreme court, which happily cut the Gordian knot, and relieved the agricultural people, not only from a tax in the interest of mining, but from the fear of ruin through the filling up of the beds of rivers, and the prospective loss of their lands by consequent overflow and deposits of worthless earth.

In October 1881, Mr Waymire was appointed by Governor Perkins to fill a vacancy on the bench of the superior court of San Francisco. Among the marked characteristics of his judicial career was the patience with which he examined evidence and heard arguments; his power of analysis and skill in the application of legal principles. In little more than a year on the bench, he rendered over 1,100 decisions, in many of which he prepared written opinions. Of the numerous important cases tried by him only thirty were appealed and of these but three were sustained. The bar of San Francisco were anxious to have him retained upon the bench by election at the close of the term for which he was appointed, and he was nominated by both factions ot a divided republican party, but beaten by a small majority, in consequence of the agitation of a Sunday law, to which the German population of either party were opposed, causing them to vote solidly with the democrats. Although defeated, he received the highest vote of all the republican candidates, running 3,000 ahead of the party candidate for governor.

The reputation achieved upon the bench greatly increased his legal business on returning to practice. Among the cases on which he was engaged were the so called railroad-tax suits, one hundred of which had been brought by the district attorneys in thirty-three counties of the state, against the Central and South-

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ern Pacific companies, the aggregate amount claimed being over a million dollars. The suits were, on motion of the defendants, transferred to the United States circuit court at San Francisco, upon the ground that they involved questions arising under the federal constitution. The state controller engaged Judge Waymire to assist the attorney-general in pressing these suits to judgment. The state lost in the circuit court, but the attorneys sued out writs of error to the supreme court of the United States, and before that tribunal decided the questions involved, by negotiations with the defendants, succeeded in collecting $800,000, which, with $200,000 paid after the suits were begun, brought about a million dollars into the coffers of the state.

In the case of Shultz *vs* McLean, before the superior court of San Luis Obispo county, Judge Waymire was of counsel for the plaintiff in a case involving 22,000 acres of land. The complaint alleged fraud in obtaining a deed; and, although such a case is most difficult to win, the judgment rendered was in favor of their client. In many other important cases, such as Ryer *vs* Ryer, a divorce case involving more than a million of dollars; United Land Association *vs* Knight, concerning the Mission creek lands; Moore *vs* Hopkins, where the plaintiff recovered a verdict for $75,000 for breach of a promise of marriage —Mr Waymire was engaged.

The lesson of these successes in an arduous and exacting profession is one of honest, steadfast purpose. United to great abilities, this makes all things possible; without it, the highest intellect is but a fire-fly torch, uncertain and misleading. As Judge Waymire is still on the hither side of fifty, he may reasonably hope to attain to greater eminence in his profession, or in the world of letters, where, had he the leisure, he would be glad to enter the lists for a prize. Having already acquired a comfortable fortune, this would be an intellectual pastime; but

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men who have shown themselves useful in any profession can hardly escape the solicitations of those who would profit by their services. That he has fully weighed the comparative value of legal and literary fame may be inferred from the following words contained in an address delivered in 1873, on memorial day, at Sacramento: "In the free press, upon which the people depend so largely for information and counsel, and especially in the popular forum, where the great controlling power we call public opinion is concentrated and directed to some special purpose, sentiment, feeling, all the hidden springs by which men are moved to action, are called into play. . . . A learned judge, who for a score of years has been a student of legal lore, gives days and weeks, and even months to the investigation of some knotty question of law affecting vital interests of the public; and at length his opinion clear, compact, fit to stand as an opinion for all time, is announced; but it attracts the attention of a small audience only, even in the community it most concerns."

He has done some vigorous writing for the leading newspapers of Oregon and California upon political and other topics. In 1875–6 a series of articles from his pen, published editorially in the San Francisco *Chronicle*, awakened a strong sentiment against stock-gambling, and at the request of Governor Irwin he prepared a bill to remedy the evils thereof. The bill was introduced in the assembly and passed that body but was defeated in the senate by the united efforts of the stock-brokers and others interested in maintaining the old methods. Many of the features of the bill subsequently became law.

Judge Waymire's leaning toward military life, a trait derived no doubt from his great-great-grandsire, John Rudolph, the immigrant, appears in his patriotism and in his affection for old soldiers. It was at his suggestion that the federal government was memorialized to establish a branch of the national

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soldier's home on the Pacific coast, and he was appointed, being a member of the Grand Army of the Republic and Veterans' Home association, to urge the enactment of a law to that end. Only after years of correspondence with the board of managers, and with senators and representatives in congress, were his efforts finally crowned with success, an appropriation of $150,000 being granted to erect a branch home, and in November 1887 a site near Santa Monica was selected, where buildings were erected to accommodate 2,000 inmates. In March 1884 he was chosen a director of the Veterans' Home association, which maintained, at Yountville, a retreat for disabled soldiers; in 1886 was elected president, and has since been four times re-elected. Under his administration the institution has been built up into a model soldier's home. He was sent as a delegate to the national encampment of the grand army held at Portland, Maine in 1885. His report of the transactions of the Veterans' home association, made to the governor of the state in 1887, contains its history from the beginning.

He has never affiliated with the baser sort in any rank of life. It is noteworthy that the 1st Oregon cavalry, to which he gave so much enthusiastic service, was known as the puritan regiment, and to the puritans in morals he still belongs, although as liberal and broad in his opinions and sympathies as a just man should be.

Judge Waymire is five feet eight inches in height, full chested and rather stout; has blue eyes and regular features, with a fresh, almost boyish, complexion, a soft voice and a kindly manner. He was married on June 22, 1865, to Miss Virginia Ann Chrisman, a native of Missouri, and like her husband of German ancestry. Mrs Waymire is one of the notable housewives and mothers of California. Judge Waymire's eldest daughter Maud has inherited both her father's taste for literature and history and her mother's

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devotion to the interests of the home circle; Charles, the eldest son, has an unusually fine physique and a talent for mathematics; Edna, the second daughter, is a bright little girl who always ranks high in her classes, while Rudolf, the pet of the family has not yet reached the age when right and wrong or indolence and industry mean anything to his baby mind. No sketch of Judge Waymire would be complete that did not take cognizance of his sentiments and aspirations as a family man. He has the German love of the soil and of a home. He is one of the few fathers in this generation who takes a personal interest in the instruction of his children. Although not what is termed a society man, he is fond of gathering his friends at his own fireside, to whom he is a frank and generous host.

It was his good fortune to make some profitable investments in San Francisco property about 1884; but preferring a residence in a suburban town, he purchased several acres in Alameda upon which he has expended a large amount in creating an ideal suburban home, where the eye looks out upon grounds beautiful with oaks, to which cling garlands of ivy, while the lawn beneath is dotted with daisies, and the walks lined with flowering shrubs and trees from all climes contentedly mingle their foliage, as if they knew that their master hated the axe, and counted among them many a leafy friend. He is specially fond of the palm tree of which he has many varieties so grouped among accacias, bamboos, aracarias, bananas, and other tropical plants of the hardier sort as to form a landscape seldom found north of the equator. Here, during the day, families of quail roam without fear, hundreds of feathered songsters make their homes, and at night the owl hunts for the gopher and the mole as if he were part of the family.

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CHAPTER [illegible]

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THERE is not per[illegible] all the Pacific [illegible] possessions [illegible] crowded [illegible] having so large an [illegible] ability, as [illegible] law. Nor could it [illegible] exhibiting as the highway [illegible] only to fo[illegible] to the right to [illegible] admitted within the [illegible] States. [illegible] more or less [illegible] of our great [illegible] ers, some of them still [illegible] passed before the great tribunal from which [illegible] is no appeal; such men as John B. Felton and [illegible] McAllister, Samuel M. Wilson and Lorenzo Sawyer, [illegible] M. M. Estee and Alexander Campbell. [illegible] widely known is our leading patent lawyer, Mr. [illegible] Alvord Wheaton, to whom by common consent is conceded the foremost rank in this branch of the profession. And not alone for his eminence in this direction, but for those higher qualities of which his professional honors are but the fringe and adornment, it is fitting that a place should be assigned to him among the lives of our leading citizens, as one whose

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M. A. Wheaton

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CHAPTER IX.

MILTON ALVORD WHEATON.

FORENSIC LEADERS—ANCESTORS—FATHER AND MOTHER—NATIVITY—BOYHOOD—EDUCATION—ARRIVAL IN CALIFORNIA—LAW PRACTICE—PATENT CASES—THE SPAULDING SUITS—EASTERN RETAINERS—HABITS—INDUSTRY—POLITICAL VIEWS—RELIGION—WIFE AND FAMILY—CHARACTERISTICS.

THERE is not perhaps in all our Pacific coast metropolis a profession so hopelessly overcrowded, and yet containing so large an aggregate of ability, as that of the law. Nor could it be otherwise in a land where this calling is the highway of ambition, the stepping-stone not only to fortune, but to the highest honors and preferment within the gift of the state. To all of us is more or less familiar the career of our great forensic leaders, some of them still among us, and some who have passed before the great tribunal from which there is no appeal; such men as John B. Felton and Hall McAllister, Samuel M. Wilson and Lorenzo Sawyer, M. M. Estee and Alexander Campbell. No less widely known is our leading patent lawyer, Milton Alvord Wheaton, to whom by common consent is conceded the foremost rank in this branch of the profession. And not alone for his eminence in this direction, but for those higher qualities of which his professional honors are but the fringe and adornment, it is fitting that a place should be assigned to him among the lives of our leading citizens, as one whose

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name ranks among the most chosen examples of human endeavor and human achievement.

On both sides Mr Wheaton's ancestors were numbered among the earlier settlers of the New England states, their record being traced back to days long preceding the revolution which wrested from the mother country the fairest of her colonial possessions. His father, Earl Pierce Wheaton, a native of Connecticut, removed in early manhood to North Gage, in Oneida county, New York, where he followed his trade as a carriage and wagon maker. He was a natural mechanic, skilled in every branch of his craft, and in this direction his genius has been largely inherited by his son, as appears in his masterly grasp of details in the conduct of his patent cases. The father was gifted with a powerful physique. Though not large in stature, it is said that he could lift from the ground by the spokes of the wheel a wagon containing a ton of hay. And yet in all the country round there was no more quiet or unobtrusive citizen. He was, moreover, a man of remarkable intelligence, active, energetic, hard-working, and a devout and earnest Christian, a member of the baptist church. His decease, which occurred in October 1838, when Milton was but eight years of age, was caused by a fever resulting from over-exertion, and through misfortunes that need not here be explained. He bequeathed to posterity nothing save his blessing and his good name.

His wife, née Mary Salisbury, was, as the name implies, of English descent, though a native of Brattleborough, Vermont, whence, about the close of the last century, the family removed to Oneida county, New York, where also they were among the earliest settlers. A woman of strong force of character, a sincere Christian, and an exemplary wife and mother, after her husband's death she supported and educated her family by hand-loom weaving, in which all the childern assisted. Her sons were Levi, who, after being in California five years, returned to his native

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state and became a prosperous business man in Utica, Milton Alvord, and William Roselle. The latter, after serving in the civil war, became a car-builder and cabinet-worker of Springfield, Massachusetts. There were also two daughters, both of whom are now deceased. Their home was in the extreme north of Oneida county, then a heavily timbered region, but later occupied by dairy farmers. They were a thrifty, hard-working community, few of them wealthy, but all well-to-do, most of them owning their own farms, each year adding a little to their possessions, and meanwhile living in comfort and giving to their children the benefit of a thorough education.

Such were the influences and such the associations among which Milton passed the years of his boyhood. And here, as will be seen, were all the elements which tend to foster self-reliance and strength of character; for a strong and self-reliant man Mr Wheaton surely is; strong in his mental, his moral, and physical powers; strong in his marvellous capacity for work; strong in his untiring energy and persistence; and strong in the knowledge of his own strength.

At North Gage, his birthplace, some twelve miles north of Utica—his natal day being the 14th of November, 1830—we find him until twelve years of age attending school in winter, and in the haying and harvest seasons taking his full share in such work as he could find to do or was capable of doing. At that age he offered his services to a farmer in the neighborhood, and for his six months' toil received the sum of ten dollars in addition to his board. For several years thereafter he worked on farms or in factories, continuing his education as opportunity offered, but with few intervals of recreation such as fall to the lot of those reared under less adverse conditions. Meanwhile, in 1847, his mother had been married a second time, and from his step-father and also from his uncle, both of whom were moneyed men, he received offers of assistance. But these he refused, as might be ex-

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pected from one of his sturdy independence of character. Nor did he at any time seek from his relatives a helping hand, though many possessed both the means and will to aid him. He could make his own way in the world, or at least he could make his own livelihood, and that he would do by his own efforts, with the aid only of Him to whom no self-helpful man appeals in vain for help.

During this year of 1847 there were only two week-days in the entire season of seven months when he omitted his full quota of work, and those were the 4th of July and the day of his mother's second marriage. From the summer's earnings he saved enough to pay for a year's attendance at the Whitestown seminary, near Utica. Here he prepared himself for Hamilton college, Oneida county, which he entered in 1851, remaining somewhat less than two years, in the mean time increasing his store of erudition by attending school in summer, and by teaching in winter, the latter an excellent means of giving substance and solidity to his knowledge. By his teaching and by working in the harvest-fields during vacations, he defrayed all his college expenses.

In the spring of 1853 his education was postponed in order to acquire the means of more thoroughly completing it. By Amasa Salisbury, an uncle on the mother's side, he was invited to accompany him to California, and to this he consented, though with no very definite object except to earn enough to finish his college course. Sailing from New York on the 5th of April, on the steamer *Uncle Sam*, and from Panamá on board the *Cortés*, they landed in San Francisco exactly one month later. Mr Wheaton expected to gather gold enough for his purpose, at the mines or elsewhere, within a single year. It was more than sixteen years before he returned to the home of his childhood, the acknowledged leader in his special line of practice of the San Francisco bar.

At the Forbestown mines, in Butte county, he

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acquired his mining experience, and that of the briefest and most unsatisfactory. "Observing," he says, "that the majority of the miners, though honest, hard-working, intelligent men, failed to make a living by their work, I concluded it was a very good business to let alone, and that conclusion I have ever since entertained." He then found occupation in chopping wood for a steam saw-mill. Near the mill was a group of dead sugar-pine trees of enormous size, which he felled and cut up, with no great exertion, at the rate of $4 per cord, the top of a single tree, in one instance, supplying him with $84 worth of wood. In the summer of 1855 he taught school for a term in Washington, across the river from Sacramento, and in the same year entered the law office of Carter and Hartley in that city. In September 1856 he was admitted to the bar, and a few months later removed to Suisun, then one of the most flourishing of the interior towns, where he soon acquired a lucrative practice. Here he remained for eight years, the unsettled condition of land titles leading to constant litigation, and furnishing him with all the employment that he desired.

In October 1865, Mr Wheaton removed to San Francisco, many of his suits being then conducted in the metropolis, especially those in connection with the Suscol rancho, the title to which was long in dispute. Some two years later he turned his attention to patent law. In the first case, that of Spaulding & Co. *v.* Tucker & Putnam, one most bitterly contested, he laid the basis of the reputation which he has since enjoyed as the most able counsel in this branch of the profession. By Mr Spaulding a most valuable improvement had been made in the method of inserting teeth in circular saws, one that led to important changes in the building of saw-mills and the manufacture of lumber, the cost of which it reduced by more than one-half. By Tucker & Putnam, as agents for the American Saw company in New York, large

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lots of saws, constructed according to the improved pattern, were being sold without license on the Pacific coast, and thus it became necessary for Mr Spaulding to protect his patent. To several of the most eminent lawyers in San Francisco he offered his case in vain. "They knew nothing about patent law," they said, "and did not care to undertake it." But one day when the inventor was relating to his friend Abner Doble his difficulty in finding a competent attorney, he was advised to consult with Mr Wheaton. "I know him well," said Doble; "he won for me a most important case, and that by appealing it without my knowledge to the supreme court. He is not only an excellent lawyer, but a natural mechanic, and knows something about patents." To Mr Wheaton, therefore, Spaulding repaired, whereupon was established between them not only the relations of lawyer and client, but a warm personal friendship, which has ever since remained unbroken.

With Mr Wheaton were associated John B. Felton and Alfred Rix; but to him was entrusted the management of the case, the brief which he prepared being approved without amendment by the assistant counsel. Opposed to him were Hall McAllister and George Gifford, the latter ranking in patent cases among the most eminent of eastern lawyers. The main question was, whether a public use had before been made of Mr Spaulding's discovery. By the defence every trick was resorted to, even to introducing into court saws purposely rusted, after being made with the patent improvement. More than a hundred witnesses were examined; but all the important testimony on the opposite side gave way before Mr Wheaton's cross-examination. He then argued the case closely and logically, as will appear from the following extract from his able and exhaustive address:

"We are saying, perhaps, more than we ought upon the question of the patentability of the plaintiff's improvements. That he made a very great improvement

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upon saws is undisputed. If he was the first inventor or discoverer of that improvement, then his patent is valid, and meets the full requirements of the law, however experts, skill, and ingenuity may try to confound that improvement with other things of older date. The mechanical inventor's skill is mechanical skill, and nothing else, and in law all abstract principles are considered old, and every real invention—which does not include accidental patentable discoveries—is made up of old principles, old materials, and mechanical skill, and generally is only new combinations of new devices. The farthest limit of invention only includes the taking of materials furnished by nature, and working them into such combination and shape, that by them we can grasp principles and agents in nature, and render them subservient to the uses of man. The inventor does nothing but put into new forms and use old principles and old materials. He creates nothing. He uses nothing but materials and mechanical ingenuity, which is only another name for the higher order of mechanical skill."

The reader will not readily call to mind an instance of more compact and cogent reasoning than is presented in the above, reminding us somewhat of the terse and lucid statements of Sir Francis Bacon, of whom Ben Jonson remarked: "No man spoke more neatly, more expressly, or suffered less emptiness, less idleness, in what he uttered." In vain did Mr McAllister reply with his usual eloquence, fighting the case with all the "satanic industry" with which he has been accredited by his rivals. The result was a judgment for the inventor, fully sustaining his rights. In other suits arising from the infringement of the patents, Mr Wheaton was equally successful; so that in this branch of his profession he came to be regarded as *primus inter pares*, as almost beyond the reach of competition. Said Mr Spaulding, "He is both lawyer and mechanic. He has great inventive genius. He understands his business and tries his cases admirably.

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He argues with power, and his briefs are very fine. He has a peculiar way of getting at the core of a thing; but he must have his own way in trying a case. After he had won all my cases I went to him and asked how much I was in his debt. He replied, 'You don't owe me anything.' He recognized that in conducting my business to a successful issue he had thoroughly equipped himself as a lawyer in patent cases, and that his fame and fortune were assured."

And so indeed they were. As the result of the zeal and ability displayed in the Spaulding suits, Mr Wheaton was retained in nearly all the more important patent cases on the Pacific coast, and in not a few in the eastern states, often appearing as counsel before the supreme court of the United States. Among the former were those of Carter & Treadwell *v.* Baker & Hamilton; In re the Huic plough patent; a series of actions in connection with the Knox & Osborn quicksilver furnace patent; with hydraulic machines, car-brakes, giant powder, and artificial stone pavements.

As an instance of the esteem in which Mr. Wheaton was held, it may be mentioned that soon after his victory on the Spaulding case, his opponent, Mr. Gifford, sent him a retainer to secure his services on behalf of an eastern client. In New York, Chicago, St Louis, and Boston he has been engaged in patent cases involving most important interests. In that of Levi Strauss & Co. *v.* King & Co., as counsel for the plaintiffs, he conducted to a successful issue one of the largest patent suits ever tried in the United States, involving the right to patents on riveted garments. In this trial 428 witnesses were examined, and more than 3,600 printed pages of testimony were taken, in addition to a vast number of exhibits, while the expenses on both sides, before judgment was rendered, were little short of $100,000. As attorney for Herman Royer, the patentee for a process whereby hides are softened and preserved from decay, one of

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his suits, tried in Boston in 1886, before Judge Carpenter, resulted in a verdict for $18,000 damages In the previous year he had been retained in the suits of the National railway company against the Kansas City railway company, probably the only instance where a San Francisco lawyer has been employed in an action to which both parties, plaintiff and defendant, belonged in the east.

But to enumerate all Mr Wheaton's forensic triumphs would occupy many times the space allotted to this biography. With an inborn genius for mechanics, he has applied himself almost exclusively to the line of practice most agreeable to his tastes and inclinations, and in patent law is acknowledged as an authority by his colleagues, and indeed by the entire community. But no less to his diligence and tireless energy than to his eminent ability is due his almost uniform success during the practice extending over wellnigh a quarter of a century. Eight o'clock in the morning, and sometimes an earlier hour, finds him at his office; and in the preparation of his cases there is no more conscientious advocate, none who takes more pains to make themselves familiar with all their salient points, and to fortify them with a strong array of precedents. While engaged in some important suit he has been known to spend nearly the whole night in studying out, in his own workshop, some problem which he intended to demonstrate to judge and jury. In his pleadings he is accurate and concise; in his arguments, clear and forcible, not given to oratorical display, but appealing only to reason and to law, which the greatest of all jurists has declared to be the essence of reason. Thus it is that his advocacy has been so widely successful, so widely in demand, and that he commands the respect of bench and bar perhaps in as great a measure as any of its members.

In politics Mr Wheaton is a republican, though never taking an active part, except when once he

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allows his name to appear on the independent ticket. In his political views he is strongly opposed to Chinese immigration, and to the immigration from Europe of the pauper and criminal classes. The Chinese, he has concluded after a thirty-six years' residence on this coast, do not know the difference between right and wrong; they encourage, for the sake of gain, all the vices from which money can be made; they cannot be trusted, and are incapable of being reformed. True, they are, as a class, intelligent and industrious; but their very intelligence and industry make them all the more, by reason of their viciousness, a source of evil to the community.

In religion Mr Wheaton is a firm believer in the Christian faith, a protestant, and without special preference for any protestant denomination, his wife, children, and himself attending the Calvary presbyterian church. He is a member of several fraternal and benevolent associations, among the latter being the society for the prevention of cruelty to children. On the day of its organization in 1858, he joined the Suisun lodge of Odd Fellows, No. 78, and to this he has ever since belonged. On the 11th day of May, 1871, he took the first degree in the Masonic fraternity in California lodge No. 1, and later the three dgrees in succession up to that of master mason. In 1886 he took the several degrees in the royal arch chapter, and in April of the same year was chosen a knight of California commandery and was admitted to the order of the mystic shrine.

He has been twice married; the first time at Suisun on Christmas eve of 1862, to Miss Carrie C. Webster, a native of Indiana. Her decease occurred on the 12th of July, 1873, leaving a son only five months old, Charles A. Wheaton. To his second wife, née Dora Perine, a native Californian and of Indiana parentage, he was joined in marriage on the 24th of September, 1876. A woman of musical and artistic tastes, with a special talent for drawing and painting, and also

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with rare mechanical skill, a thorough student, a devout church-member, and yet of most cheerful and genial temperament, it may readily be imagined that, as her husband remarks, their home is to them almost as a heaven. In the training of her children, Lois Gertrude and Dora Mildred, the former ten and the latter six years of age, she uses only kindness and persuasion, never resorting to punishment, and as the result her wishes are promptly and cheerfully obeyed. In the year of his second marriage Mr Wheaton removed to the residence which he still occupies, opposite the Flood mansion on California street hill. Here his brief leisure time is passed in the company of his wife, his children, and his books; for his library, if not one of the largest, is one of the choicest private collections on the Pacific coast.

In appearance Mr Wheaton is a man somewhat below medium height, with a compact and stalwart frame, in complexion dark, with black hair streaked with gray, clear, hazel eyes, and features well outlined and regular in contour. In manner he is quiet, unobtrusive, and reserved, often seemingly absorbed in thought, averse to the frivolous pastimes of society, though among intimate friends there is no more pleasant and jovial companion. To his temperate habits, for he uses neither tobacco nor strong drink, and also to the peace and happiness of his domestic life, is due his robust and vigorous health; for now in his sixty-first year he accomplishes with ease what to men of half his summers would seem an impossible task. His love of his profession is exceeded only by the love of home, and whether in the ranks of that profession or within the circle of that home, there is no man more widely esteemed for his qualities of mind and heart, the purity of his life, and the noble conceptions of duty to which all the years of that life have been devoted.

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CHAPTER X.

LIFE OF GEORGE HYDE.

A Typical Argonaut—Birth and Education—Voyage to California—Alcalde—Land System—Surveys—Groundless Accusations—The Committee of Citizens—Exculpation of Mr Hyde—Attitude of Governor Mason—Professional Career—Marriage—Children—Appearance—Character.

There are but few survivors, a score or two at most, of those who landed on these shores during the pastoral days of California, the golden age preceding the age of gold. For this was the time when in truth it might be said of her inhabitants, O fortunatos nimium sua si bona nêrint! when if gold was scarce, that which gold could purchase was abundant, and in a measure within reach of all, when, without expending a single dollar, one travelling through the land from end to end would find in every house a cordial welcome, and in each one the best that it contained freely at his disposal. Those days are long since past, never, alas! to return, and to me there is no more grateful task than to record in these pages the career of those who lived therein, and by whose efforts were moulded the destinies of the infant commonwealth. Such a man was George Hyde, who arrived in this state not far from the day when the stars and stripes were unfolded at Monterey, who witnessed the closing scenes of the Bear-flag episode, and of Fremont's campaign, and was himself a leading figure in the political events which marked the close of military rule and the inauguration of constitutional government.

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George Hyde

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CHAPTER X.

LIFE OF GEORGE HYDE.

PARENTAGE—BIRTH AND EDUCATION—VOYAGE TO CALIFORNIA—ARRIVAL AND SETTLEMENT—SURVEY—PERSONNEL OF AUTHORITIES—THE CITIZENS—INAUGURATION OF MR. HYDE—ARTICLES OF UNION—PROFESSIONS—CHAPEL—MARRIAGE—CIVIL RELATIONS—CHARACTER.

There are but few survivors of a score or two at most of those who landed on these shores during the pastoral days of California, the golden age preceding the age of gold. For this was the time of which it might be said of her inhabitants, Quos minimum sua sibi nocuerint! when if good were cheap, that which gold could purchase was also cheap, for a measure within reach of all, when, without having a single dollar, one travelling through the country from end to end would find in every house a cordial welcome, and in each one the best that it contained freely at his disposal. Those days are long since past, never, alas! to return, and to me there is no more grateful task than to record in these pages the deeds of those who lived therein, and by whose efforts were moulded the destinies of the infant commonwealth. Such a man was George Hyde, who arrived in this state not far from the day when the stars and stripes were unfolded at Monterey, who witnessed the closing scenes of the Bear-flag episode and of Fremont's campaign, and was himself a leading figure in the political events which marked the close of military rule and the inauguration of constitutional government.

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George Hyde

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A native of Philadelphia, where he was born on the 22d of August, 1819, Mr Hyde belonged to one of the oldest families of Pennsylvania, of which state his father and grandfather were well-to-do citizens, the former dying from the effects of a cold at the untimely age of twenty-seven. After receiving his education at Mount St Mary's college, in Maryland, he studied for the bar under one of the leading practitioners of his native city, and in 1840 was himself admitted to practice. But of his career in the eastern states, no further mention need here be made, for to the more prominent part of which he played in the annals of California must be devoted the brief space allotted to his biography.

From Norfolk, Virginia, Mr Hyde set sail in October 1845, on board the frigate *Congress*, in the position of secretary to Commodore Stockton, landing at Monterey on the 14th of July, 1846, exactly one week after Commodore Sloat, in command of the flagship *Savannah*, took possession of the country in the name of the United States. From Monterey Mr Hyde set forth at the close of the month for San José, and thence for Yerba Buena, or, as we will call it, San Francisco, where he arrived on the 10th of August, 1846.

On the 15th of September, 1846, after Stockton had issued his proclamation declaring the territory part of the United States, and the people citizens of that republic, an election was held for the office of alcalde, and others of minor importance. For the former the choice fell on Washington A. Bartlett. At that date the duties of this office were varied and manifold, including, besides civil, criminal, and admiralty jurisdiction, the collection of duties, the granting of clearances, and all such matters as pertained to the captaincy of the port, and the chief official of the pueblo or town.

Early in December, provisions running short in San Francisco, the alcalde set forth into the interior

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to procure a supply of beef, and while on this expedition was detained for a month or more by a party of hostile Mexicans. During his absence Hyde was appointed to act in his place by the commanding officer, J. B. Hull, holding that position until the release and return of Bartlett. So well and faithfully did he discharge his duties that on the 1st of June, 1847, he was himself selected by General Kearny for the office of alcalde, though accepting it, he said, somewhat unwillingly.

In order to encourage settlers of the better class, the Mexican system had been adopted in the distribution of land in San Francisco, for in the official records that port had been declared a pueblo, with the usual four square leagues of land. Under this system every one was entitled, under certain conditions, to a grant of land not exceeding one hundred varas square, on payment only of the fees, amounting to some fifteen dollars. Early in 1847, soon after assuming the direction of affairs as governor, General Kearny conveyed to the pueblo what was known as the beach and water lots, including the whole of Yerba Buena cove, which in the following July was surveyed and sold at auction. A few months afterward, at the solicitation of Alcalde Hyde, Colonel R. B. Mason, the successor of Kearny, sanctioned the reorganization of the ayuntamiento, or town council, to which the pueblo was entitled. The six members elected were W. Glover, W. D. M. Howard, W. A. Leidesdorff, R. A. Parker, F. P. Jones, and W. S. Clark. So much it is necessary to state in order to understand the nature of the charges preferred against Mr Hyde, charges for which personal enmity was alone responsible, and from which a man of his character deserves at the hands of a true biographer some vindication.

A few days after assuming office Mr Hyde was requested by interested persons to move the line of Market street, together with the entire district of the

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one hundred varas surveys, forty feet south of their then and present location, in order to render more eligible certain lots which they desired to procure. This he declined to do, on the ground that a number of lots had already been granted on the line of Market street, and as their owners had thus acquired a vested right, he had no authority to interfere. By the same individuals a similar request was made as to the beach and water-lot surveys, and this was also refused, on the ground that they were almost completed, and the day of sale was near at hand.

Dissatisfied with the alcalde's decision, the ring which had sought for a change in the public surveys began a bitter and determined persecution. First appeared anonymous and insulting paragraphs in the California *Star*, and then came charges of official misconduct, preferred by a so-called "committee of citizens," appointed by the ring, and not at any public meeting. Out of seven allegations but two were investigated, for these being not only disproved but turned against his accusers, no action was taken on the remainder. The inquiry was held before the members of the town council already mentioned, acting at Mr Hyde's request as a commission to take evidence and report to the governor, with R. A. Parker in the chair.

The first charge was that of defacing the official map of survey by altering the numbers of certain lots, and thereby making it valueless. To this there was only one witness, Grayson, who stated that he knew who made the defacement, and that it was Alcalde Hyde, but on cross-examination admitted that his only reason for supposing Hyde to be guilty was that the map belonged to his office.

At the following session the animus of the prosecution became still more apparent. Being ordered to read the evidence, of which he had made a transcript as directed, the clerk read only that which had been

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given on behalf of the committee, omitting all that had been elicited in cross-examination. When asked why he did so, he replied that he supposed it his duty to set down merely the evidence against the alcalde. This was too much even for the members of the commission, one of whom belonged to the ring, and the clerk's resignation was at once demanded.

The commission then proceeded with the evidence, acknowledging that on the first charge this was all the testimony, and making no comment on the nature of that testimony. Hyde then brought forward and caused to be read before the members the complaint made by interested persons as to the change of survey in the portion of the town where the defacement existed. It was shown that as yet there was no official map, for in view of the possible change in the line of Market street, the survey between Clark point and North beach had not been completed. It was also shown for whose benefit and at whose instance the map had been tampered with, before Hyde became alcalde, and that whoever had altered the numbers of the lots had done so at the instigation of the persons preferring the charges, with a view to criminate the alcalde and screen themselves. It was further proved that some of these numbers had been merely restored, after being obliterated by Hyde's predecessor, as the result of action brought by certain complainants against the pueblo, and determined by arbitrators; that this restoration had been made in a careless and slovenly manner, in places disfiguring the map, though by whom could not be ascertained, but certainly not by the alcalde. In truth, the latter knew nothing of the matter, until the cases were settled by three hombres buenos, and the evidence recorded in his office.

Every night for a month the commission met; but on each occasion adjourned until the following night, for the committee of citizens, though frequently cited to appear, could not be induced to proceed. At

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length, on the 5th of December, 1847, the second charge was brought forward at the instance of Sam Brannan, who complained that a certain lot promised by the alcalde's predecessor, if found to exist after survey, had been granted to a later applicant. For this a single session of two hours was sufficient, Brannan himself, after hearing the evidence, admitting that Hyde was in no way responsible. In truth, the latter did not even know where the property was; nor could any written evidence be found in his office as to the alleged promise or understanding. It was the rule that when a petition was filed for a lot, the clerk should make out the deed and place both deed and petition on record, leaving the record unsigned until the money was paid; whereupon the alcalde, without perhaps even looking at the number of the lot, affixed his signature to deed and petition, and there the matter ended. By the clerk—the same one who had served under his predecessor—it was testified that the alcalde knew nothing about the promise made to Brannan, that he did not even know of it himself, that neither Brannan nor any of his clerks had come to the office to complain, as stated by the former; nor was information at any time received that the lot in question had already been bespoken.

Here the matter virtually ended; for though the council still met as a board for the purpose of taking evidence, giving the committee every opportunity to prosecute, the complainants, from very shame, declined to appear, knowing that further exposure would only increase the contempt which, by their misrepresentations, they had already brought on themselves.

But further trouble was in store. In March of the following year, the alcalde, in the exercise of his duty, was compelled to place Leidesdorff, and one George McDougall, under bonds on account of an altercation as to a coming horse-race. Thereupon the former, together with F. P. Jones, a member of the council, whom he had taken into his confidence, addressed a

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letter to Governor Mason, requesting him, in view of the charges preferred, to remove the alcalde from office. This was indorsed by Howard and Parker, also members of the council, who, persuaded by others, wrote to this effect: "Inasmuch as you have appointed us to investigate Mr Hyde's affairs, we recommend his removal"; thus implying the guilt of the alcalde, though, as will presently appear, without any such intention. The governor replied by calling for a copy of the evidence, which at once exposed the treachery of the assailants, and thereupon Parker and Howard refused to take any further action. Nothing abashed, however, Leidesdorff and his colleague despatched another letter to the same intent, requesting the governor to treat it as private correspondence, in answer to which the latter replied that he must consider the alcalde innocent until evidence of his guilt was produced, and that none had as yet been brought to his notice. Meanwhile Mr Hyde took ship for Monterey, and in person tendered his resignation. "Well," said Governor Mason, "I shall end all this business to-morrow, and send these men my final communication, of which I will hand you a copy. Of course I must accept your resignation, for after such a fright as you have had you will not care to remain in office." "I could not resign," remarked Hyde, "until the matter was brought before you by the committee." "You were perfectly right," said the other; "these matters are always unpleasant, and after all a petty and contemptible business; there is always some trickery to be exposed, and most of them arise from anger and jealousy." By the general public, after the second charge had been examined and the prosecuting committee had refused to attend, the entire proceedings were regarded as a farce. But that which to the public, however deeply at first they were interested, became at length a source of amusement, could not be lightly regarded by a man of his sensitive temperament, sense of honor, his regard for

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a reputation that was never tarnished save by the breath of slander. Would that more of our office-holders, that more of our politicians, were a trifle jealous of their reputations, for then would political trickery be held less in esteem than political honesty, and the iron rule of demagogues decline before the milder sway of patriotism.

For several years Mr Hyde was a prominent figure in the political circles of our western metropolis, where also, until 1852, he practised his profession in the supreme and inferior courts, and was acknowledged as a lawyer of good ability and repute. During his later years his attention was directed mainly to real estate operations, among his purchases and improvements being the property opposite the Palace hotel, on Market street, near Kearny, where he erected the Galt house and adjoining buildings to the westward. He was also a stockholder and director in the projected railroad from San Diego to San Bernardino, and from his various investments derived an ample income, which, after withdrawal from active business, he enjoyed in the retirement of his home and in the company of his wife and children, for to him there was no longer any charm in the stir and excitement of political and business life.

On the 18th of November, 1841, he married Ellen J. McCoy, a native of Philadelphia. Of their six surviving children, the only son, John Barry, became a resident of Lower California. Frances Adele, the eldest daughter, is the wife of Camilo Martin, the Spanish consul for California, and a resident of San Francisco. Ellen J. was married to Bayard T. Smith of Baltimore. Gertrude became the wife of Doctor Alexander F. Garceau of Chicago; Florence died in November 1890, in the convent of the Sacred Heart at Oakland; and Marie C. remained to cheer her mother's declining years.

Mr Hyde was a man whose face and figure, once observed, could not be readily forgotten. Tall of

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stature, wanting only two inches of six feet in height, his frame was well-knit and compact, his gait and carriage erect and soldier-like, his features regular, expressive, and clear-cut, with bluish eyes, a broad and spacious forehead, and a mouth and chin denoting a will capable of self-command and of commanding others. In manner he was genial and courteous, in speech clear, forcible, and concise, in tastes and habits simple and natural. None there were among the few survivors of pre-argonaut days who were more deeply and widely respected, none whose career was more generally useful, more strictly honorable, and none who were more deeply regretted, when, after passing the age of threescore years and ten, he was summoned to his eternal rest.

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Aaron Merrill

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CHAPTER XI.

LIFE OF ANNIS MERRILL.

ANCESTRY—HOME—EDUCATION OF HEAD AND HANDS—TUITION EARNED—TEACHER AND LAWYER—PRACTICAL BENEFICENCE—QUIET MORAL AND INTELLECTUAL FORCE.

IN the autumn of 1891 Annis Merrill had passed eleven years beyond the scriptural life-term, and although he had retired for more than a score of years from the jostlings and friction of acquisitive labor, his zeal for the betterment or relief of his fellow-man continued unabated. Ripe in scholarship and experience, he appears exceptionally exempt from the ordinary foibles and asperities of age. The years have come softly upon him, confirming rather than marring his natural dignity or disturbing the sweetness of his temper. Courtly in appearance and manner, he might be taken for a representative Kentuckian of a generation past; for in his walk and conversation he manifests the moral tone and courtesy of that old school. He was not reared in that régime, but it has been more than once observed by students of such phenomena, that men whose lives are framed upon the same principles may resemble one another in the distinguishing features of expression and carriage, though the details of their environment be quite unlike. The circumstances of life in Kentucky, among the aristocratic class who had at command ample means of liberal culture, were highly favorable for the development of character; they were students, not altogether because it is useful to be learned, but

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Annis Merrill

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CHAPTER XI.

THE OF ANNIS MERIL.

Ar[illegible] Home Education of Head and Hand[illegible] Lawyer. Practical Lessons [illegible] Political Force.

In the autumn of 1891 Annis Mer[illegible] had passed [illegible] years beyond the scriptural l[illegible] though he had retired for more than a [illegible] from the jostling and friction of ac[illegible] his zeal for the betterment or relief of [illegible] continued unabated. Ripe in scholarship [illegible] ence, he appears exceptionally exempt from [illegible] nary foibles and asperities of age. The ye[illegible] come softly upon him, confirming rather than mar[illegible] his natural dignity or disturbing the sweetness of his temper. Courtly in appearance and manner, he might be taken for a representative Kentuckian of a generation past; for in his walk and conversation he manifests the moral tone and courtesy of that old school. He was not reared in that régime, but it has been more than once observed by students of such phenomena, that men whose lives are governed upon the same principles may resemble one another in the distinguishing features of expression and carriage, though the details of their environment are quite unlike. The circumstances of life in Kentucky, among the aristocratic class who had at command ample means of liberal culture, were highly favorable for the development of character; they were students, not altogether because it is useful to be learned, but

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also because of a conventional pride in education. But, in addition to the incentives prevailing in that typical southern community, there existed in Massachusetts a primary ambition resulting from the necessity of making a living. The conditions in New England were of a nature to compel and to stimulate to labor of hand or head. The consequence was the development of self-reliant, independent men and women. The life and character of Annis Merrill, a moral and intellectual force among the builders of a commonwealth on this coast, is an exemplification of this fact.

Born September 9, 1810, at Harwich, Massachusetts, when two years of age his parents removed to the town of Bath, situated among the granite hills of New Hampshire, within view of the White mountains. The child lived in no one locality long, however, for his father, Joseph Annis Merrill, was an itinerant methodist clergyman. This worthy man died in June 1849, in the sixty-eighth year of his age, shortly before his son had arrived in San Francisco, that is, on the 18th of August of the same year. Entering the methodist ministry at the age of eighteen, he was an energetic member of the New England conference during his whole life. Devoted to the cause of education also, he was among the principal founders of Wilbraham academy, the first institution of learning successfully established in America by the methodists. A powerful preacher and a critical scholar, his life was practically dedicated to the promotion of religion and learning. He inherited, nevertheless, the martial spirit of his ancestry, and during the war of 1812 served as chaplain in the celebrated fighting regiment of Colonel Binney. His father, who had been a soldier throughout the entire revolutionary war, had taken part in the battle of Bunker hill, and had witnessed the surrender of Cornwallis at Yorktown. An ancestor of the family, Peter Merrill, of Huguenot origin, a captain in the

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navy of Great Britain during the reign of Charles the second, was knighted for bravery in the war against the Dutch. Members of his family, for the sake of religious liberty, in 1638 emigrated to America, and settled at Newbury, Massachusetts. The Merrills trace their genealogy in this country to his sons John and Nathaniel.

The household of Joseph Annis Merrill was one in which the highest duties of man were taught and fulfilled. His wife, whose maiden name was Hannah Jewett, the daughter of a baptist minister of Canadian-English descent, was devotedly religious, well educated, poetic in temperament, and lovely in person as well as in spirit. It was recorded of her after her death, which occurred a few years following her husband's decease, that "she was estimable in all the relations of life." Their home was frequently visited by leading men of the church, whose manners and conversation entered directly into the education of their ten children. Eschewing all frivolous topics, they discussed only those things which have a substantial bearing on the present condition or future state of mankind—religion, morals, education, economy, law, politics, society. While earnest, and for truth's sake sometimes heated, their argument or conversation was ever characterized by cheerful dignity and Christian courtesy. Of the ten children, of whom Annis was the second, all were living in 1890 but one. Three of the sons were ministers, two lawyers, and the two daughters are wives of ministers of the gospel. Mr Merrill insisted that his boys should each learn a trade, and his wishes were complied with by all of them except the eldest; he escaped, because when the time arrived for apprenticeship he was engrossed in preparation for the ministry.

Annis Merrill began his education at the common school, at that day held in special veneration and attended by almost all children. At ten years of age he entered the Newmarket academy, which his father

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had been instrumental in founding, in which he was a student for two or three years. In his twelfth year his parents removed to Connecticut. His next school was a tannery in which he served two years; but he aspired to a sphere of greater usefulness, though he never despised any honest labor, however humble. Earning enough money by teaching school in the long winters, he paid the expenses of his tuition during the rest of the year, and prepared himself by an academic course for the Wesleyan university. The four years' curriculum there he completed with honor, in his twenty-fifth year; rather later than most young men graduate, but in the judgment of some educators quite early enough for the complete digestion of the course; though the delay in this instance was because he had to earn his expenses. After graduation, and while a student at law, he went to Louisville, Kentucky, where, though differing from the majority of the community in politics, he formed friendships among the leading citizens, and was offered an eligible situation as principal in the high school about to be established there; but he accepted instead a call to the professorship of Latin and Greek at McKendree college, Lebanon, Illinois. The character of his labor as an educator for the next seven years was manifested by the success of a number of his pupils who subsequently distinguished themselves in the higher walks of life. While teaching the classics and political economy in conjunction therewith, he continued the study of law, and in 1843 was admitted to practice by the supreme court of Illinois; and when he resigned his professorship, he entered the law at Belleville, St Clair county, in that state. A year later, having to remove on account of his health, he went to Boston, and there formed with his brother the law partnership of A. & A. B. Merrill. The most conspicuous incident of his practice in Boston was his connection with Rufus Choate in the celebrated case of the commonwealth of Massachusetts versus

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Albert J. Tirrell, his client, tried first for murder and afterward for arson, and acquitted on both charges. The defence set up was, that if the accused committed the deed, he was in a somnambulistic state at the time of the act, and therefore not morally or legally responsible. The plea was a novel one, never offered before, perhaps, nor since, and extraordinary ingenuity was required to maintain and establish it. Mr Choate's argument was, of course, masterly; while he is reported to have remarked to his associate counsel, Mr Merrill, whose argument, reported in substance in the Boston press, evinces great legal ability and profound study of the science of human pathology: "Publish this case, and it will immortalize you."

These, in brief, are the salient features of the career of Annis Merrill, until, being again in ill health, it occurred to him that he might recuperate, and at the same time earn a competency in a few years in California. He was then in his thirty-ninth year, older than the majority of those who came to the far west, but this was not to his disadvantage. It would have been better for many others had they came hither like himself with habits fixed and judgment matured, for he was indeed admirably equipped, morally and intellectually, for a career of respectability and usefulness. He had enjoyed the benefit of a home favorable to the formation of character; he had availed himself of his opportunities to acquire the rudiments of English; in the school of manual labor he had obtained a sure means of support; the privilege of liberal culture, the result of his own toil, he had appreciated and utilized; after seven years' experience as an educator of young men, he had entered mind and soul into a profession held in esteem by many good men. His habit was, like Webster, first to reason out a case on elementary principles of law as the foundation, and then to use authority or precedent in framing the superstructure of his argument. The reverse of this, which is so much in vogue in the practice of the pres-

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ent day, that is, of striving for a decision primarily upon the weight of authority, he never could consider the true or intellectual method. He attributed his success to work, for he was wont to say: "Whatever talent the lawyer may possess, he cannot succeed eminently without thorough preparation." He laid great stress upon integrity in the practise; for "ultimately," said he, "the more conscientious the lawyer the more successful he will be." To his profession he paid this glowing tribute: "As a class, lawyers are as honorable and conscientious as scholars or ministers of the gospel; the moral courage they exhibit at times in their loyalty to clients, at whatever cost or sacrifice, rises to the sublime."

On his arrival in San Francisco he formed a partnership with John McVickar, a lawyer from Detroit, Michigan, whose acquaintance he had formed on the trip by way of the Isthmus. Among the fraternity in California, each had brought with him the law he had been accustomed to at home. The result was an extraordinary medley of forms and processes in early litigation in San Francisco. Still, as the great desideratum was despatch, the merits of a case were quickly arrived at, and as expeditiously determined. Merrill and McVickar prospered, but Mr McVickar dying in 1854, Merrill continued in the practice alone for seven or eight years. Then, for the most part, he retired, except that he would occasionally give advice to friends, and was the legal adviser of the San Francisco Savings and Loan society, commonly known as the Clay street bank, of which he was also director for many years. It was during his connections with this institution that it survived the memorable ordeal of an eighteen months' run, brought on by cashing false navy warrants to the amount of $250,000. Mr Merrill and other directors and stockholders stepped into the breach, and with their private funds saved the bank from loss. Since withdrawing from active practice, he has been occupied in the management of

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his real estate, the results of his early investments, which proved judicious and profitable. A prudent and capable man of business, he was never a slave to money-getting. Ever in sympathy with the community, he has taken an active and generous interest in whatever concerns the people.

The Reverend Joseph Annis Merrill, during his last hours, sent a characteristic message to each of his absent children. "Tell Annis," said he, "I would as lief go to heaven on wooden wheels as on golden wheels." To the mind of this good man the act of emigrating to California seemed not unlike the offering of sacrifice to mammon. And yet this far distant land, seeming to many at that day beyond the pale of civilization, has never been without its good works and charities, nor has the life of Annis Merrill in California been less than unselfish and benevolent. Truly he possessed the talent to acquire wealth, but this talent is not always base or sordid. It is a consummation devoutly to be wished that all who are as benevolent as he might be rich. Then, indeed, would all men say, wealth is a blessing. He was not ambitious to acquire fame or power, or to command luxuries. He has aspired to be useful in the humbler walks of life, placing duty to others above purely personal consideration. He acquired the thousands he desired in California, and more, and he remained to be a benefactor by his generosity, and by the example of his living. "Homo sum, nihil humani a me alienum puto," seemed a controlling sentiment of his action.

His experience and reflections having led him to appreciate the evil consequences of vice, he endeavored not only to lead a wholesome life, but to help others to do so. When only ten years of age he and other boys drank with the crowd from the great punch-tub at the launching of a ship, and became intoxicated. While working in the tan-yard, if his clothes got wet, a toddy was taken to counteract the chill. Many of the veterans of the revolution were still living when

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he was a boy; nearly all of them drank, many of them to excess. Occasional drunkenness was the rule rather than the exception. In almost every house considered hospitable, there was a sideboard provided with rum, brandy, gin, whiskey, or wine, of which guests were expected to partake without stint. Ministers of the gospel tippled, and if they became unduly exhilarated, little was thought of it. Young Merrill promised himself, when sixteen years old, that he would not drink again, and he never did. Total abstinence became a part of his religion. There was no temperance organization at that time, and it was many years before anything was conceived of in the nature of a suppression of the traffic in intoxicating drinks by law. The first temperance society he heard of he joined. While in college he lectured and continued to work in the cause, so that when the prohibition party was formed it naturally found in him one of its earnest supporters. Though he was not young enough then to be as active in the fight as he could wish, he exerted his influence, ever raising his voice and contributing freely of his means in opposition to the manufacture and sale of strong drink. Intoxication seemed to him so terrible and so unnatural, that he could not but look upon its suppression as the work of God himself, through the free moral agency of intelligent men. He has lived to see a great check placed upon drunkenness, almost a revolution wrought out, and much sooner than he had expected. The churches, protestant and catholic, have taken a stand against the traffic in alcoholic stimulants. Within and without the church, organization has followed organization, pledged to warfare against the liquor fiend, while science is occupied in demonstrating its evil effects. The women of the land are arrayed against it, for they see drunkenness in the wreck of husbands, brothers, and sons. If they vote, and Mr Merrill maintains that they should be allowed to do so, if for this purpose alone, the triumph

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of temperance would be assured. He appreciates expediency in all things, and favors every legitimate means toward the end proposed. While he is not unaware of the logical difficulty of high license, he would accept this apparent compromise for the sake of the advantage it offers, as a point of departure. He realizes that the people can be educated up to the standard of total abstinence only by degrees; he is not violent or bitter in his temperance views, but practical and charitable. He is not blind to the fact that there are men who are engaged in the liquor business, of fair character in other respects, who, making a living by means of legalized enterprise, consider their business honest.

In his religion, which is the source of his enthusiasm in all other works, he has been a stanch methodist from early manhood. A constant and zealous student of the bible, as his knowledge of the scripture has increased, so has he been ever confirmed in the doctrine of his church, which he regards as a great power for good, possessing very large general influence, because in touch with the masses of the people. As a teacher of the bible in the Sunday school, he was a diligent and a conscientious laborer before he came to California, and he has been an indefatigable and successful worker in this field ever since. For twenty-five years president and life member of the California Bible society, and for many years a life member of the Young Men's Christian association, he is now also vice-president of the American Bible society. In religious work he has been a reliable source of charity and support. There are many protestant churches in San Francisco and other places on this coast to the foundation of which he has contributed generously.

To the work of secular education he has been not less devoted, believing that knowledge acquired from profane literature is not only valuable on account of its temporal uses, but that the greater the enlighten-

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ment of the mind the clearer its comprehension of those truths which appertain to the hereafter. For the Wesleyan university, now the university of the Pacific, at San José, California, he drew the first charter, in 1850; since then, its president for most of the time, up to within the last two years, he has been at all times a pillar of the institution, contributing largely to its support. He has been, almost from its inception, a life member of the Mercantile Library association, San Francisco, and has taken always a deep interest in educational enterprises generally.

During his most active manhood he was identified with and took active part in the odd fellows and masonic societies, as he believes them to be in harmony with benevolence and improvement. And he is a life member of the society of California Pioneers.

He has taken special interest in the questions that have constituted the issues in politics during the greater part of the century. He never sought office. In 1890, purely for the sake of the principle involved, he allowed his name to be used in the utter hopelessness of success on the prohibition ticket, for mayor of San Francisco. At the time of his entrance into politics he espoused the cause of state rights and free trade, and he zealously advocated these doctrines, in which he became confirmed by a more comprehensive study of political economy while professor of this science at college; the present strongly marked tendency toward centralization of government convinces him of the correctness of his original views regarding the individual functions and reserved rights of the states.

He was among the early abolitionists of the school of Phillips and Garrison, trusting, however, that emancipation might be brought about on such a basis as would be accepted by the south. Against the southern people he had no grievance, and he entertained a very kindly feeling toward many of them personally. His lectures and speeches in the pioneer

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days of abolitionism are still well remembered in New England.

Believing, before the republican party had been formed in California, that President Pierce had gone with his cabinet completely over to the south, he joined the free soil party, and purchased the *Alta California*, a daily morning newspaper in San Francisco, in which to advocate free soil principles; but he had no predilection for journalism, and in the course of nine months disposed of it, on the understanding that the paper should continue to advocate this policy. From the inception of the republican party on this coast, he was for many years among its leading members; and upon the nomination of Fremont, at the request of the state central committee, he travelled for three months throughout California, discussing from the stump, and thus instructing the people in the principles and objects of republicanism. Although he is not now in accord with his party in what are apparently controlling issues, he is republican rather than democrat, because he believes that the republican party is, on the whole, the safest and best on account of the generally superior character of those who compose it.

Mr Merrill married at Middletown, Connecticut, Miss Harriet Maria Sage, a sympathetic, intelligent, and loyal woman, of sterling character, who in her proper sphere has been all these years a helpmeet in the full biblical meaning of the word. She has been for more than thirty years active as a manager of the San Francisco protestant orphan asylum. Joined in mind and heart, their lives are made one by the force of that enduring affection which grows out of and is matured in a just mutual appreciation of each other.

In his wide circle of friends, Mr Merrill is almost universally addressed as judge, a term of regard and consideration often applied to the man of law in the United States, and in this instance an appellation which seems altogether becoming. The uprightness

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and purity of his life, his profound sense of right, tempered with charity, his learning and the dignity of his character, render him a type of those to whom alone the people feel that the administration of justice ought to be intrusted.

"No true worth, known or unknown, can die on this earth. The life of a moral agent stands upon an enduring basis, silently addressing to every new generation a new lesson and monition. His life is worth interpreting, and ever in the dialect of new times of writing and rewriting." Though among the quietest forces of our community, Mr Merrill's influence for good will ever be felt in those beneficent activities, only a part of which have been mentioned, to which he has devoted unselfish years. Of sweet and gracious disposition, he has rendered himself happy chiefly by contributing to the happiness of others. With regard to that most vital concern, in which the present is involved as a probation for the future, it may be said that to faith he has added good works, and that when summoned before the last and universal tribunal, his record will not be such as to make him ashamed or afraid. Among the great men of earth there are not a few who, for lack of conscience, might without loss to the moral world be entirely forgotten. It is from such as Annis Merrill, however, that we learn the universal value of labor, self-government, integrity, knowledge, and charity, the last of which is the highest and best of all the virtues, finite or infinite

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Charles Maclay

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CHAPTER XIV.

LIFE OF [illegible]

[illegible] Profession—Lineage of [illegible]
Other Members of the Family [illegible]
Noble Work [illegible]
[illegible] Views—Their [illegible]
[illegible]—Character Summary.

[illegible] been remarked that [illegible]
[illegible] to elevate from the ranks of [illegible]
[illegible] best [illegible] become its [illegible]
[illegible] views, and [illegible] broad, [illegible]
[illegible] modelled by the fetters of [illegible]
[illegible]. This may in part be true [illegible]
[illegible]. Many there are and have [illegible]
of the clergy who were held in [illegible]
[illegible] of our magnates or millionaires [illegible]
[illegible] science, was Thomas Storr King, [illegible]
the Reverend Charles Maclay, whose [illegible]
ministry and later in the senate-chamber [illegible]
widely known than are the benefactions which [illegible]
made his name a household word in every [illegible]
[illegible] state.

The lineage of the Macleys is traced [illegible]
the time of that bloodless revolution, when [illegible]
of Orange made his triumphal march from [illegible]
Westminster, and the last of the Stuarts ended [illegible]
brief but eventful reign. At that date their ancestor Charles Maclay, was one of the oldest residents of County Antrim, Ireland. Of his three sons, Owen, Charles, and Henry, the second was killed in a duel

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Charles Mackay

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CHAPTER XII.

LIFE OF CHARLES MACLAY.

THE CLERICAL PROFESSION—LINEAGE—ROBERT MACLAY—JOHN MACLAY—OTHER MEMBERS OF THE FAMILY—EDUCATION OF CHARLES MACLAY—MISSION WORK—AT SANTA CLARA—POLITICAL CAREER—SENATOR—POLITICAL VIEWS—THE SAN FERNANDO TRACT—THEOLOGICAL COLLEGE—MRS MACLAY—CHILDREN—SUMMARY.

IT has been remarked that the church has long ago ceased to enlist in the ranks of the clergy those who are best fitted to become its champions, men of liberal views, and of broad, comprehensive intellect, untrammelled by the fetters of bigotry and superstition. This may in part be true; but it is not all the truth. Many there are and have been in the ranks of the clergy who were held in higher esteem than any of our magnates or millionaires. Such a man, for instance, was Thomas Starr King, and such was the Reverend Charles Maclay, whose career in the ministry and later in the senate-chamber is no less widely known than are the benefactions which have made his name a household word in every portion of the state.

The lineage of the Maclays is traced back beyond the time of that bloodless revolution, when William of Orange made his triumphal march from Torbay to Westminster, and the last of the Stuarts ended his brief but eventful reign. At that date their ancestor, Charles Maclay, was one of the oldest residents of County Antrim, Ireland. Of his three sons, Owen, Charles, and Henry, the second was killed in a duel

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with a French officer, the third lost his life at the battle of the Boyne, while the eldest accompanied the fallen monarch into his voluntary exile, and in France, where he ended his days, accumulated a considerable fortune, which he bequeathed to strangers. By his second wife, née Hamilton, a lady of Scotch extraction, Charles Maclay the elder had a fourth son, named John, and of the three children of the latter the two boys, also named Charles and John, took ship for America in 1734, landing at Philadelphia. Unto John Maclay the younger were also born three children, John, Charles, and Elizabeth, of whom the younger son became a captain in the revolutionary war and was killed at the battle of Crooked Billet; the daughter was married to Colonel Samuel Culbertson of Pennsylvania, and John espoused his cousin Eleanor, by whom he had ten children, the youngest of whom, named Robert, was the father of the personage whose biography is now presented to the reader

In early life Robert Maclay settled at Concord, in Franklin county, Pennsylvania, then a small village situated in the heart of a mountain gorge. Here he engaged in business as a merchant, farmer, and tanner, and under able and judicious management his affairs steadily prospered, so that for the time and place he soon possessed a considerable estate. He was a man of strong character, strong in mind and body, and by all the country round was regarded as a natural leader of men, one whose advice and opinion were courted and held in respect. A sincere and exemplary Christian and a member of the methodist episcopal church, of which he was ever a firm supporter, it was his earnest desire that all his sons should prepare for the ministry; but first of all they were trained to habits of industry and taught to labor with their hands, lest they should become, as is often the case with the brethren of their cloth, a mere burden upon the community. Of his five sons,

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the Reverend John Maclay is now living in retirement at Saratoga, after his long and useful labors as a clergyman in the southern methodist church. Here, after a similar career, his brother Alexander died some years ago, while W. J. Maclay became a professor of languages in the university of the Pacific, and at the time of his death was a member of the state legislature for Napa county, California. Doctor R. S. Maclay, another member of the family, was sent in 1848 as a missionary to China, where for twenty-five years he labored, and during most of that period was superintendent of the mission work, publishing in the Chinese language a dictionary and several religious treatises. He was then transferred to Japan, where he was also placed at the head of the methodist mission, and organized a college under the auspices of that denomination. Through failing health, however, he was compelled to remove to California, where he became dean of the college of San Fernando. Of the four daughters, three married and died near their old home in Pennsylvania, while the fourth ended her days, some nine years ago, at the residence of her son, Doctor J. P. Widney.

But it is with the career of Charles Maclay that we are more immediately concerned, as the one who became the most prominent of all the members of this widely respected family. After learning his father's trade and receiving such scanty educational advantages as the neighborhood afforded, Mr Maclay entered upon his work in the ministry when only nineteen years of age, making the circuit of his district once in every four weeks, and receiving by way of stipend for his first year's services the sum of $62. As one of the results of this early experience he began to feel the need of a more liberal education, for thus far his only instruction had been received in the log school-house of his native village, and from an irascible and somewhat brutal pedagogue, fresh from the highlands of Scotland. He therefore entered

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Dickinson college, Carlyle, whence, however, at the end of six months' study he was ordered home by the presiding elder, and told to resume his duties in the ministry. This was indeed all the education he received, apart from the higher and more valuable education which he gave to himself. For many years, and indeed throughout his lifetime, he was a thorough student, thus fully atoning for his early deficiencies in this direction, and he enjoyed the reputation of being one of the best read men on the Pacific coast. Neither in youth nor in manhood did he ever acquire a single bad habit, spending over his books and in self-improvement the leisure hours which others too often squandered in frivolity and dissipation.

His second circuit, of which Amos Smith was presiding elder, embraced the county of Cumberland and the head waters of the Potomac, an area of at least one hundred miles. Here he preached and labored for a number of years, until, a weakness of the lungs threatening consumption, he was ordered by his physician to take a sea voyage. On reporting to his superior, Doctor McClintock, he was sent as a missionary to California, where he arrived in the spring of 1851, journeying by way of Panamá. Here he was appointed to the Santa Clara circuit, building the first protestant church in that district and also the first one in the county of Alameda, for which he contributed largely of his own means. He was also chosen one of the trustees of the university of Santa Clara, the first one established on the Pacific coast. Thus he remained until the spring of 1874, working with all the zeal and energy of his earnest nature, and with a faithfulness worthy of the apostles of old. Meanwhile his average stipend did not exceed $100 a year. To the acquisition of money, at least so far as it was connected with his profession, Mr Maclay was entirely indifferent; but the laborer is worthy of his hire, and by some means he must live. He decided therefore that in the future his work in the ministry should

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be gratuitous, and to provide himself with a livelihood opened a store in the town of Santa Clara. But now his health gave way, the strain on his nervous system being too severe for a man of his somewhat delicate constitution. Under medical advice he resigned his connection with the church and soon afterward devoted himself entirely to politics. Here it is only proper to remark that he did so from no motive of personal gain or aggrandizement, that his choice was made in the service of his country and by no means to advance his own interests, and that throughout all the years of his political life he preserved unsullied the honor and integrity which marked his career in the ministry.

Long before this date, Mr Maclay had become prominent as one of the leaders among the republicans; and was indeed one of those who assisted in the organization of this party on the Pacific coast, using his influence to secure the nomination of Stanford for governor, one of his fellow-members in the assembly during the session of 1861–62, and later for four successive years a member of the state central committee. But it was in the upper house of the legislature, in which he took his seat on the 9th of January, 1868, that Mr Maclay rendered the most service to his party, of which for eight years he was acknowledged as the leader in the senate. For this position he was eminently qualified by his remarkable decision of character, his clearness of perception, and his rare business capacity. But perhaps his influence was due more than all else to the fact that throughout his political career he was never known to break a promise, making such promises slowly indeed, and only when assured he was in the right; but once made he invariably fulfilled them to the letter. In this respect he contrasts most favorably with others of his fellow-members whose profusion of promises was too often in painful contrast with the tardiness of their fulfilment. In Sacramento and elsewhere it was commonly remarked of

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the senator: "Once you get Maclay to promise a thing he will do it, and you need not trouble yourself any more about it." Thus it is no cause for wonder that he succeeded in passing all the more important measures which he introduced, only those being rejected which he considered almost unworthy of his advocacy.

While in the senate he was chairman of several committees, being appointed in his first session to the one on state and county revenue. During this session also he introduced a number of important measures, among them being an act to encourage the early construction of the Southern Pacific railroad, and one to establish the university of California. In this connection it may be mentioned that he attended in the senate to the affairs of the Central Pacific, in the interests of Governor Stanford and Colonel Crocker. Of both these men he spoke in the highest terms, often remarking that they never asked him to introduce a bill of which he did not fully approve, but on the contrary, instructed him to withhold all measures that in his opinion were not perfectly just and equitable.

During the first visit of the Japanese embassy to California, while Senator Maclay still held the balance of power in the upper chamber, a resolution inviting its members to visit the capital was passed by the house, but rejected by the senate. At the suggestion of Mr Charles De Long, who called his attention to the insult thus offered to the embassy, he handed to the governor a list of the members whose appointment he desired on the committee appointed for this purpose, and by a little careful manipulation finally succeeded in passing the resolution, himself addressing to the embassy the speech of welcome. The party was then conveyed to Sacramento, where, at the New Orleans hotel, he ordered a banquet at an expense of $2,000, for which outlay he was only reimbursed by the legislature after long delay and with the greatest reluctance.

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As to the senator's political views, it may be stated first of all that he was a throrough protectionist, believing that the policy under which the country has reached its present condition of prosperity is the one best fitted to its future needs, and that a return to the principles of free trade would merely flood the country with foreign manufactures at prices with which it would be impossible for our home industries to compete. The Chinese he considered in the main an injury to the country, though admitting that there was a time, especially during the construction of the railroads, when their presence among us was a necessary evil. Later he claimed that they were no longer needed, and the sooner we were rid of them the better. To the prohibition movement, at least under its modern management, he was strongly opposed, believing that in the hands of the party which controlled it, there was little hope of its success. The temperance question, he considered, should be taken entirely out of politics, and regulated by each locality for itself. In this opinion he was indorsed by many of the most liberal statesmen and politicians of the day. With the prohibition party he was not identified remaining throughout his political career a stanch republican, though by no means in a partisan sense. His first vote was cast for General Fremont when a candidate for the presidency, and while in the senate he became one of the electors by whom Abraham Lincoln was chosen for a second term. At a public meeting held in San José after Lincoln's assassination, a speech which he made in favor of Andrew Jackson won for him the favor of the conservative democrats, by whom he was requested on the following day to accept the nomination for the state senate. This he did, and it is almost unnecessary to state that he was elected, for in all the country round there was no one more popular or more deserving of the people's confidence. More than once he was requested to become a candidate for the United States senate;

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but this he always refused, for he was never ambitious of such honors, nor would his health endure the hard winters of the national capital.

From the arena of politics Senator Maclay withdrew with a reputation unsullied by the faintest breath of slander, but with fortunes shattered by indulging too freely his generous impulses, for it was his custom to befriend all who were in need of assistance, believing each one to be as honest as himself. On entering the senate he was the possessor of an estate which he valued at from $70,000 to $80,000, and at the close of his last term was compelled, as he assured us, to borrow the money wherewith to proceed to southern California. Here, as elsewhere, however, he was esteemed and trusted by all, and among his host of friends were many whose purse and influence were placed at his disposal. But though always ready to extend a helping hand to others, he would seldom accept such favors for himself; nor was he in fact in need of them. So excellent indeed was his standing in the community that he was enabled to purchase solely on credit a tract of 56,000 acres in the San Fernando valley, afterward sharing it with two others whom he admitted as partners, and retaining as his portion 20,000 acres. This he sold a few months later to a joint stock company for the sum of $400,000, while still retaining a large interest in the property, among its promoters being Judge Widney, H. L. Macneil, and Mr Alexander of Monterey. In the water-works connected therewith, which he considered even more valuable than the land itself, he was also a large owner. Thus at a single bound, the senator raised himself once more to a condition of affluence; and of his suddenly acquired wealth he made such excellent use that none envied him his prosperity.

No sooner had he come into possession of this fortune than he resolved to devote a large portion of it to the cause of the church, and this he would do at

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once, lest perchance the opportunity should again escape him. Sending for Bishop Fowler, he explained to him his plans for establishing a theological college, donating for this purpose $100,000, to which, before the papers had been drawn up, he added a further sum of $50,000. In his appointment of trustees he was careful to select men of sound financial position and thorough business judgment, while so managing the affairs of the institution that it was impossible to incur a single dollar of liability.

A handsome brick building with stone foundation was erected in the midst of a sightly location covering some ten acres, and situated on the line of the Southern Pacific railroad, about twenty miles north of Los Angeles. In climate and beauty of scenery the site is unsurpassed, and perhaps unequalled by any on the Pacific coast. At an elevation of eleven hundred feet above the sea, it is surrounded on every side by the Sierra Madre and Santa Monica ranges, entirely free from fogs or malaria, and with a semi-tropical climate, tempered by the ocean breeze and the cool mountain air. At the close of 1888 there were twevle students in the theological department; and if this may appear a somewhat small attendance, it should be remembered that in the other five theological seminaries established by the methodist episcopal church in various portions of the United States, the total number of graduates does not exceed seventy-five a year. In connection with this college an academy has recently been established, for the benefit not only of the students, but of all who wish to avail themselves of its advantages. It is indeed a matter for sincere congratulation, not only among the methodists themselves but among the community at large, that through the liberality and disinterested devotion of Senator Maclay, an institution was thus organized where men may be trained for the great work of the ministry under such conditions as will best prepare them for their future labors among one of

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the most cultured and intelligent communities of the world. This work was to the senator the crowning labor of his life; his later years were passed in the retirement of his home in San Fernando, where, relieved from the cares of business and politics, he awaited the more perfect rest destined to reward his generous deeds when his earthly career should have come to an end.

In conclusion, it may be of interest to mention the senator's views as to the future of southern California; and on this question he was somewhat of an optimist, though not more so than is warranted by the prospects of that thriving region. So long as people of wealth and leisure continue to select for residence this favored section of the Pacific coast, escaping the rigors of the eastern winter and making their abode in a region of almost perpetual spring, southern California cannot fail to progress in material and intellectual development. At no distant day it is destined to contain ten-fold its present population, and one composed of the wealthier and more cultured classes. Those who have come thither from the eastern states almost by accident, and seeking merely recreation, have there made their permanent home, building handsome residences and taking a personal interest in the welfare of their adopted land.

In 1851, Senator Maclay was married to Miss Kate Paxton Lloyd, a native of Pennsylvania, with whom he had been several years acquainted. On the womanly graces and many estimable qualities of Mrs Maclay it is unnecessary here to enlarge, for among the worthier classes of society none are better known or more highly esteemed. Of their six children the three daughters are married to some of the most prominent citizens of California, and of the two surviving sons, one, now over thirty years of age, is in charge of the property at San Fernando, and another is attending school at Los Angeles, while the third was laid at rest some years ago in the church-yard of Santa

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Clara. As an instance of the kindness and consideration which the senator displayed toward his family, the following incident is worthy of mention. At the time when he made his princely donation to the college which bears his name, the members of his household expostulated with him for parting with so large a portion of his means. It was a few days before Christmas, and on Christmas morning he said to them: "Children, some of you may think I have been a little rash in giving so much to the church, and now I am going to make you all a little present of your own." Thereupon he presented to each one a cheque for $10,000, and to his nephew, whom he had adopted, he gave the same amount. Thus he gained at once their good-will and coöperation, all of them taking as much interest in the success of his favorite project as did the senator himself.

In appearance Senator Maclay was a man of imposing presence, wanting only two inches of six feet in stature, and with a frame in proportion to his height. His complexion was light, with clear, penetrating eyes, of a bluish tint, and gray hair, originally of a dark brown color. Perhaps that which most struck the observer was his remarkable power of conversation, and the ease with which he grasped in all its bearings the subject presented to him, giving his own views with all the sound, practical common sense, the force and precision of language, and the clearness of statement for which he was noted while leader of the senate. For the work that he did and the good that he accomplished on behalf of the church and of his adopted state, his name will always rank among the foremost of his contemporaries; while for the munificence of his charities, and his priceless boon to the cause of education, he will be remembered evermore as among the leading philanthropists of the age.

Mr Maclay died July 19, 1890, at San Fernando.

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CHAPTER XIII.

LIFE OF ROBERT M. WIDNEY.

SELF-MADE MEN AN INSPIRATION—STUDY OF A PORTRAIT—ANCESTRY—EDUCATION—WORKING WESTWARD—THE BUILDING OF THE HUMAN FRAME—EARLY EXPERIENCES IN CALIFORNIA—ORIGINALITY OF THOUGHT AND ACTION—EDUCATIONAL INSTITUTIONS—THE FINANCIAL PROBLEM.

WE present to our readers one of our self-made men. America has produced so many of this kind that the reader is familiar with their general characteristics. They are an inspiration to their fellow-men, and are only possible where the political and social condition of the country are such that every avenue is open to every man on his own merits and efforts. These men are intelligent, reflective, energetic, and persistent to the last, and are imbued with a high sense of honor and rectitude in their dealings with men. A portrait like Judge Widney's is a biography in itself. The physical development shows a full, strong, healthy organization, capable not only of great activity and working capacity, but also of unusual endurance and continuity of effort. The mind or spiritual force that really builds around it the material frame or machine with which it works imprints on the whole body, and proclaims to the world, its own characteristics, as an open book, known and read of all men. In fact, each person is at any given time only the resultant effect of all of his acts and thoughts down to that date.

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CHAPTER XIII.

LIFE OF ROBERT M. WIDNEY.

A MAN A SITUATION—STUDY OF A PERSONALITY—
HIS WORKING WATCHWORD—THE LESSONS OF HIS
EARLY LIFE—ENTERING CHOSEN OBJECTS—A PLACE
FOR EDUCATIONAL INSTITUTIONS—THE FINAL CALL.

We present to our readers one of our self-made men. America has produced so many of this class that the reader is familiar with their general characteristics. They are an inspiration to their fellowmen, and are only possible where the political and social condition of the country are such that every avenue is open to every man of his own merits and efforts. These men are intelligent, reflective, forgetful and persistent to the last, and are imbued with a high sense of honor and rectitude in their dealings with men. A portrait like Judge Widney's is a biography in itself. The physical development shows a full, strong, healthy organization, capable not only of great activity and working capacity, but also of unusual endurance and continuity of effort. The mind or spiritual force that really builds around it the material frame or machine with which it works imprints on the whole body, and proclaims to the world, its own characteristics, as an open book, known and read of all men. In fact, each person is at any given time only the resultant effect of all of his acts and thoughts down to that date.

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R. D. Sidney

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In this case the portrait is a correct composite picture of the life and thought that preceded it. Strong forces under control of a firm will, held with self-possession, ready to be directed with coolness, precision, intelligence, and great persistence and endurance against the object to be overcome, are shown in well-balanced combination. Careful, systematic training and the effect of high education are apparent. A bodily organization free from the effect of inherited or personal vice, well cared for under the laws of health, make a gift and an inheritance to a man for which he should thank the forces that operated in his favor. Such are in debt to nature and to men to aid in uplifting and upbuilding society. Keen perception and cautious reflection are strongly marked, both in the phrenological development and in the lines of expression, the foundation of carefully investigated facts and maturely formed plans, prophetic of success. Or, wording the same characteristics in the technical language of psychology, the analytical and synthetical forces are strong and well marked. They are the powers by which material and immaterial aggregates or masses are separated into parts and rebuilt in forms to suit the builder.

The record of such is the object of the *Chronicles of the Builders;* builders of themselves, builders of society, and of government. I have sketched these few bold outlines that the student may have in mind the results produced by a course in American life as made by not uncommon environments held to a fixed line by strong will-power. The result is the final interpretation of the biography.

On the paternal side the ancestors came as officers with William the Conqueror, from Germany. They settled and became landed proprietors in England and Scotland, where yet they hold their estates and titles of nobility in the family name. In the religious persecutions one branch of the family was despoiled of its property, and sought the hospitality of the unknown

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fields of America. Ever pushing to the frontier western line, in about 1800 a branch of the family settled in Miami county, Ohio, where Wilson Widney, the father of Judge Widney, was born. On the mother's side—Maclay—the ancestors were officers in King James' army, and were with him at the unfortunate battle of the Boyne. The Maclays are one of the old Scottish clans, some of whom came to America in an early day. Senator William Maclay was Pennsylvania's first member of the United States senate. His carefully kept diary, recently published, is the only record of the secret sessions of congress at the time our form of government was moulded. He it was who first rose in congress and spoke against the undemocratic proposed title of his Grace or his Lordship, as the title of the president. Under this debate the president became the legal title of the nation's chief executive.

From this family name came Miss Arabella Maclay, who became the wife of Wilson Widney of Ohio, in 1835. Mr Widney was the second child in a family of nine, seven of whom now live in California. Born in a log-house on a farm in 1838, he saw the early pioneer and frontier life merge into the grand civilization of Ohio. Boyhood life found him with the sickle, reaping grain. The invention of the cradle marked an era of progress, and at thirteen the muscles of the body were tortured with that instrument until they became muscles of iron, insensible to pain. The woodman's axe, the cross-cut saw, the maul, rail-splitting, and kindred tortures finally developed a physical system of which an athlete could well be proud. The only accessible school in those days was the country log school-house, with selected split rails for benches, and a long board or slab for a common writing-table. The teachers were equally primary. None of the early teachers could teach mathematics beyond long division, or in the early tables of federal money. When this ultima thule

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was reached, the teacher always said, "We will now turn back and begin over again," which was promptly done. The scholars who insisted on going further were usually whipped and turned back with the class. Reading, writing, spelling, and arithmetic were well taught in their elementary parts, but nothing beyond. Parental care provided the best books of the time on natural history, biography, and in general literature.

The novel, or works of unhealthy romance, were regarded as the worst of enemies to the successful building of strong, manly characters fit for life's hard, real work. The desire for knowledge, and trained self-reliance, induced young Robert Widney to push on through the pages of arithmetic alone. The inability of teachers to explain had forced the student to think out the reason of things, and the ever-present question to be solved was: "Why did the man who made the book put it this way, and not some other way? How did he know this was the right way? How did he first find out? Why can I not learn it as he learned it, and then when I have not the book with me I can do it as well as he could? He just thought it out." These were the keys that unlocked the treasures of knowledge, and, once in possession of the searcher for wisdom, were never lost. Nothing was considered learned until it was fundamentally learned in the foregoing manner.

Algebra, rudimentary astronomy, and grammar were mastered in hours of seclusion and study.

In 1855, at the age of sixteen, he decided to push farther to the frontier, as his ancestors had been doing for generations. With his saved earnings of about $150, he bade good-by to the rugged surroundings that had laid and developed the principles of life's success. Two years were spent, most of the time alone, on the great buffalo ranges of the west, and in the heart of the Rocky mountains.

The wood-craft of Ohio's forests led him safely over

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that vast pathless region as if he had been to the manor born. The high altitude and light, dry air, with the incessant physical exercise of chasing game and climbing mountains, developed the lung capacity, solidified bone and muscle, until the vital organs were in the most efficient working condition. The portrait on which we commented shows a physical development, the result of the preceding activity. No enervating touch of city life marred the results.

In 1857 he crossed the plains on foot to California, arriving with an emigrant train in October. It was at the close of the gold-mining era. Hundreds of returning miners were thronging eastward, advising emigrants to turn back, that the mines were exhausted, the valleys were deserts, and the country played out.

Arriving in California with $1.60, work was sought, but all demands seemed to be supplied. At a steam quartz mill application was made to cut cord-wood. "We have all we want," said the proprietor. "What do you pay a cord for cutting wood?" "Two and a half, but we have all we want." "Well, if I will cut it for $1.50 per cord will you take it?" "O, yes, we will take all you will cut at that figure." It was not a question of work, but of too high a price for labor, that caused the dull times.

A request for the purchase of an axe and a few days' provisions was at first reluctantly granted, but when only a few pounds of flour and some bacon, amounting to about fifty cents, were selected, the proprietor's confidence was restored, and he insisted on a good supply of coffee, tea, sugar, and other provisions being taken. This was declined, with the remark that the flour and bacon were sufficient until paid for. "When will you go to work?" said the proprietor. "As soon as I can get to the first tree that is to be cut down," was the reply. As the forest was on all sides, the distance to work was not far. The proprietor was requested the next evening to come out and measure

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up the wood, as Widney wanted to pay his bill and get further supplies. "That is all right," replied the owner; "get all you want at the store, and when you are through I will measure up the wood."

Hands unused to such work during the preceding years of hunting were soon blistered and raw, to such an extent that when the axe was taken up in the morning the hand was not removed until noon, as the flesh adhered to the dry handle and would be torn off.

On settling up the job of wood-cutting, the proprietor urged the acceptance of a clerkship in the store or a position in the mill, both of which were declined, as other plans were in view. Coming to the Santa Clara valley he engaged on a farm, adopting Ohio hours of work, from 4 A. M. to 8 P. M. Soon the farmer complained that his team could not stand such hard work, or such deep ploughing, wanting the soil scratched in California style. He was advised by his employé to get two teams, and as to scratching the soil, it was not the way to raise good crops; and if he wanted that kind of work done he must get some one else, as Widney was unwilling to work where he believed it would result in a failure. The two teams were secured, the deep ploughing continued, and the best crop raised that had ever been seen on the land or in that locality.

Advanced wages and promotion were offered, but knowing that knowledge was power, the offers were declined for a studentship in the University of the Pacific. Nearly three years' absence from study made the first few weeks very hard work, and caused considerable merriment among his fellow-students, at slips and blunders in getting started. It was not long until pertinacity and endurance began to tell in the contest, the lost distance was soon made up, then a race for supremacy in scholarship. The physical ability to study from 3 A. M. until 11 P. M., every day of the session, soon wore out all competitors, and left him the acknowledged student of the college. An education was the object, and not leadership of classes, so for

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five years his hours of study were not less than eighteen out of every twenty-four. Here is where the years of hard work in boyhood, and deprivation and hardship as a mountaineer, showed their value and effect.

Graduating with the honors of his class in 1863, he was elected to a professorship in the university. In this department his success was evidenced by an offer from the directors of a life professorship and a choice of departments, with the further offer that if he would accept a department of natural science, he should have full salary and half time for work. The offer was declined for the study of the law and the building of his own enterprises. Two years were spent in Austin, Nevada, as a geologist and mining engineer.

In February 1868 he came to Los Angeles, then a village of some 4,000 inhabitants, and foreseeing the great possibilities of southern California, at once permanently located, and laid his plans for a professional and business life. Soon was built up a fine real estate business and law practice. Purchasing a printing outfit, he issued his own real estate paper and circulated it free over the country. The law practice rapidly increased, and soon he had all that one could do working sixteen hours each day.

In November 1868 he married Miss Mary Barnes, a woman who has made a reputation for executive ability and originality of plans wider than southern California.

In 1871 was the great Chinese riot in Los Angeles. Several hundred rioters of the lower class were engaged in a massacre of Chinese. The police and sheriff's forces were overawed by the armed crowds, who were hanging Chinese men, women, and children. Deeming it the duty of every citizen to stake his life in defense of the innocent, he called upon the bystanders to aid in stopping the murders. "You lead and we will follow," was the reply. Instantly a charge was made on the rioters, the rescuers laying hold of

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the Chinese victims, the rioters brandishing revolvers and threatening death. It was but the work of a few seconds for Widney to tear each rioter from his hold and bring him facing a loaded revolver, full cocked and finger on the trigger. "Get out or I'll kill you," resulted in each one instantly retiring to the sidewalk. The rescuing party proceeded for the jail. A rapid consultation among the rioters resulted in forming a line of about fifteen abreast, and a charge to recover the rescued Chinamen.

As the lines attempted to pass Widney, who was holding a rear guard for the rescuers, his revolver covered the charging line of infuriated, excited men, and sweeping it from end to end, the cold words quietly broke the still night air. "Stop! I will shoot the first man that attempts to pass." The tone of final decision is never mistaken by men. The line wavered, halted, turned, and retreated. Eighteen Chinamen were rescued in succession from the rioters. Not one was hanged in that part of the city after the rescue was started. In another part of the city eighteen were hanged.

Upon the request of nearly the entire bar, Mr Widney was appointed judge of the seventeenth district court of California in 1871. The duties of this office were discharged for two years. Judgments were entered up in over six hundred cases, of which only a few were ever reversed by the supreme court. Jury cases were almost entirely abandoned in civil suits, the attorneys preferring the decision of the court.

It was said of him by attorneys, that he always put the merits of both sides of each case so clearly into the record, that the supreme court could always enter final judgment for justice and right. His hours of court were from nine to twelve, one to five, seven to nine each day, so long as a case was ready for trial, with decisions rendered usually the next morning, on the cases of the preceding day.

Under this organized and systematic action, the Los

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Angeles bar became one of the finest aids to the court in the administration of justice that ever graced court work. Having cleared up the judicial business of his district, and of two others, leaving not one case ready for trial, he lay down the judicial ermine, and entered upon his own business affairs.

Matters of public interest received his attention and support, but he always refused to become a candidate for any office, notwithstanding that leading political organizations of both parties jointly offered to nominate him for congress or any other office he would consent to accept.

Owing to conflicting rulings, the title to large areas of state lieu lands was thrown into doubt and litigation. Being employed by occupants of these lands, he prepared a curative act to be passed by congress. A strong opposition was organized in California and Washington city to the passage of the bill. For two sessions of congress the battle was fought inch by inch; before the committees on public land, before the United States land department, before the California delegation in congress, before the state land commissions, and finally by pamphlets pro and con before every member of congress. The electoral commission was in session, with all of its intense excitement, and legislation was almost at a standstill. Here was where the characteristics of persistence, endurance, and never-let-up counted for success.

At every point Judge Widney carried the unanimous support of every committee or body of hearers. When within a few days of the close of the session, when a single objection would throw the bill over the term, it was taken up and passed without a negative vote or an objection in either house. On March 1, 1877, President Grant signed the "act relating to idemnity school selection in the state of California," found on page 267 of United States printed statutes for 1877. Under its protecting power the settler has ever since rested in peace on his land and in his home.

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Judge Widney was usually employed by settlers in their contest with Mexican grant owners claiming and floating grant lines over public lands. In these cases he was uniformly successful. Many of the most valuable colonies in southern California are on lands thus saved from fraudulent grant claims. As a land lawyer his reputation and success was second to none of California's many able and illustrious attorneys.

In 1879 he organized the University of Southern California, placing it on a foundation where by proper management it will become one of the leading educational forces of southern California. The title of LL. D. was conferred upon him in 1887.

The general conference of the methodist church in 1888 appointed him one of a committee of twelve, consisting of four bishops, four ministers, and four laymen, to prepare a constitution for that church. He has organized and conducted to success several large land enterprises in southern California.

In 1890, foreseeing the coming financial troubles of the country, he took up the work of a national reform in our system of finances. Concisely stated, the plan embraced an amendment to the constitution, fixing the amount of issue of national notes, pledging the wealth and faith of the nation for its maintenance, providing against the dangers of inflation, contraction, or repudiation, or change of the gold standard of values, making gold, silver, and currency exchangeable at par, and a legal tender for all debts, providing also that at each census the volume of currency shall be brought up to a fixed volume per capita.

A carefully prepared bill accompanies the amendment. It provides for a national banking system, for the circulation of money, introducing the bonds of states, counties, and a certain class of cities, and real estate, each under carefully guarded conditions, as a basis of security from banks to the government for obtaining money for circulation in times of special demand. It also provided a system whereby the

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government can enter upon the plan of erecting its own post-offices and public buildings in every city and village in the United States. Also for a systematized plan of public improvements of rivers, harbors, and others that might be necessary.

The National Bankers association of 1890, which met at Saratoga, refused to allow him to discuss the subject before that body. The bankers throughout the eastern states opposed any agitation, claiming that our supply and system was ample, refusing to believe that any crisis was pending. Judge Widney appealed to the people, and began a system of pamphleteering on the financial situation and the remedy.

A National Currency was the title of the first, which rapidly ran through to the fourth issue. It was a careful statistical and historical presentation of the money situation of the world, and especially of the United States. It contained the full text of a proposed constitutional amendment and bill for congress. The facts were brought out from which was forecast, early in 1890, the coming financial storm. The phamphlet commanded the attention of all classes.

In March, his address before the California Bankers' association, on an increased volume of money, commanded wide attention to the finances of the country. He was appointed a delegate to the first commercial congress at Kansas City, where he was selected to address that body on finances. His subject was: "As Good as Gold; a national currency issued by authority of the people, backed by the wealth of the nation, based on a constitutional amendment, and circulated for the benefit of the people, under a national money system in ample volume for the business of our growing civilization." The address commanded the enthusiastic attention of the vast audience. As the chairman tried to limit the time of the speaker, the audience thrice rose as one person, demanding the extension of time and the finishing of the address. At the end of an hour the speaker refused to take

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more time from other speakers, and retired from the platform, in the midst of a storm of calls to "Go on; go on; we want to hear that address finished!" It was the address of the congress, and at once attracted the attention of the nation. A leading bank president said it was the most dangerous address ever delivered in the United States on finances, so far as the present system and the interest of the money-owners were concerned. The address was published, and circulated all over the United States. "We regret that this speech is not within the reach of every citizen of the United States, as it is the clearest and most concise dissertation on the currency question we ever listened to," was the editorial comment of newspaper men. It has commanded the attention of nearly every member of congress, as well as of the executive department of the nation.

Judge Widney has since prepared, more elaborately, *A Treatise on the Money Question.* In this treatise of some forty pages is the most complete and accurate diagnosis and history of the science and facts of money and finances that has been produced as applicable to the present money situation.

The following quotations will give the reader an insight into his views:

"Either our circulating medium must be increased sufficiently to meet the wants of our growing country, or the business of the country must be killed off until it is within the compass of our present circulation."

"The circulating medium should be issued by authority of the whole population, and should be backed by the entire wealth of the nation, and should be controlled for the common benefit of all. Justice and equity to all must be at the foundation of any system adopted by our nation."

Of the laboring classes, as affecting the money question, he writes: "Educated and with high aspirations, our people should receive better wages and a preference in employment. If we wish to maintain our stan-

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dard of civilization, we must pay for it, and must help our educated laborers to a higher plane of life. They should not be forced into competition with laborers emerging from a low civilization. And here, in protection of our own laborers would it not be well for our government to close its doors to the inflooding of foreign labor?" "We should be generous, but not so generous that we give our employment to strangers and drive our own sons and daughters of America into idleness, shame, and want."

Judge Widney is five feet ten inches in height, and weighing over two hundred pounds. His head is massive, his features are regular and clear-cut, hair slightly gray, eyes, which are light blue, keen and penetrating. His style of living is elegant, without ostentation. Everything about him shows the even balance and fine proportion of his mental structure, with a capacity for every kind of success, as his life illustrates. From the earnest, hard-working farm-boy, to the still earnest, polished man of wealth, position, and influence, was a continuous upward and healthy growth. Such men are the pride of our American institutions, which must flourish while they rest upon such shoulders, and while they are the educators of the rising generation.

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CHAPTER XIV.

LIFE OF JEREMIAH FRANCIS SULLIVAN.

FROM OBSCURITY TO EMINENCE—EXEMPLARY PARENTS—THEIR CHARACTER AND EXAMPLE—THE VIRTUE OF LABOR AND INTEGRITY—ADJUDICATION OF CELEBRATED CASES—RELIGION AND POLITICS.

MICHAEL SULLIVAN and his wife, both natives of Ireland, came to California when their first child, Jeremiah Francis, born at Canaan, Connecticut, on the 19th of August, 1851, was eight months old; that is, in the month of April 1852. Mr Sullivan was a man of sound judgment, ready wit, and excellent memory. His early schooling in books was of the most meagre character, but he may be said to have educated himself by observation and reflection, and such direct study as his little leisure allowed. He became well informed on more than one subject, and made himself familiar with the history of the United States. He was a most ardent admirer of the institutions of our government, and he was in spirit and in practice a thorough-going American. Though never a seeker after political office, he felt a lively interest and took an active part in politics. He despised pot-house tricksters and 'bosses,' and he never hesitated, on occasion, to oppose or defy them. His criterion was principle, and he would suffer any sacrifice rather than compromise with dishonor. A farmer in the old country, he became a miner for ten years in Nevada county, California; after which he was foreman of a mine at Virginia city,

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CHAPTER XIV.

LIFE OF JEREMIAH FRANCIS SULLIVAN.

OBSCURITY TO EMINENCE—EXEMPLARY POLICY [illegible] OUR
AND EXAMPLE—THE VIRTUE OF LIBERALITY [illegible] MAN
PLAN OF CELEBRATED CASES [illegible]

MICHAEL SULLIVAN and his wife, [illegible] came to California when [illegible] Francis, [illegible] Canavan, [illegible] of August, [illegible], was eight [illegible] the month of April 1852. Mr. [illegible] man of sound judgment, [illegible] memory. His early school [illegible] most meagre character, but [illegible] educated himself by observation [illegible] such direct study as his little [illegible] came well informed on more than most [illegible] made himself familiar with the history [illegible] United States. He was a most ardent admirer [illegible] stitutions of our government, and he was [illegible] in practice a thoroughgoing Democrat. [illegible] ver a seeker after political office, he felt a [illegible] est and took an active part in politics [illegible] used pot-house tricksters and 'bosses,' and [illegible] dared, on occasion, to oppose or defy them. [illegible] erican was principle, and he would suffer any [illegible] rather than compromise with [illegible]. A [illegible] er in the old country, he became a miner [illegible] ten years in Nevada county, California, after [illegible] he was foreman of a mine at Virginia city,

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Nevada, the proprietor of which was the republican candidate for a high office. His democratic foreman was told that he was expected to vote and work for the election of said candidate, or he would lose his situation. The alternative was serious, for he had a large family of small children depending upon his labor for their support; but standing firmly upon his rights as a citizen, his duty to his party and to himself, he refused to comply with the demands of his employers. Fortunately his manliness was appreciated, and he did not lose his place, which result, due to the United States senator in question, is among the best things I have ever heard to his credit. Michael Sullivan died in 1887, leaving a widow and eight children, whose welfare had been the engrossing and unselfish care of his life. Such a character and example are a legacy superior to any other that a father can leave to his sons. The influence of his life upon the son about whom I write is very perceptible, the one being in some respects a reproduction of the other. To Mrs Sullivan, a mother of pure mind and solid worth, exemplary in all the walks of life, her first-born is indebted for his ideal of true womanhood, and there is no standard more ennobling or wholesome in the development and maintenance of character among men.

Jerry Sullivan's childhood was passed at Nevada city, the centre of a rich mining district, in which were gathered a number of men of extraordinary talent, especially lawyers, who have subsequently distinguished themselves throughout the Pacific coast. There he received lessons in a private school until he was ten years old, when his parents removed to San Francisco. Here he entered the preparatory department of the college of St Ignatius. Apt, tenacious, and thorough, at the end of eight years he graduated with the well-earned degree of bachelor of arts, to which was added later that of master of arts. After graduation he taught the classics and mathematics in his

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alma mater for two years, while at the same time he studied law.

Two years more in the office of a well-known firm, and in 1874 he was admitted to practise in the supreme court of the state. Unwilling to be anybody's clerk, he opened an office for himself. His practice grew, and in 1877, his talents and character having become recognized, he was elected to the board of education of San Francisco. It was the time of a great scandal in the office of the state superintendent of public instruction regarding the sale of teachers' certificates. As chairman of the committee on this investigation, he was active and successful in his efforts to clear up the fraud, which resulted in the reform embodied in the new constitution.

In the first election held under this new fundamental law, in the autumn of 1879, as nominee of the democratic party, indorsed by the workingmen's and new constitution parties, he was elected superior judge by a fair majority. Of the twelve judges chosen, he was the youngest. Among the cases submitted to him for adjudication was that of Burke against Flood, one of a number of cases of the stockholders of the California and Consolidated Virginia mines against the bonanza firm, in which the latter, as trustees, were charged with fraud in the diversion and appropriation of the profits of the mines. This suit, upon which the rest depended, the same questions arising in them all, and involving upward of a million dollars, he decided in favor of the share-holders. It was never appealed, but was settled outside of the court by compromise.

On December 24, 1884, Judge Sullivan decided the celebrated Sharon-Hill suit, after a trial of nearly sixteen months. Stripped of its technicalities, it was a suit of Sarah Althea Hill to establish her claim to be the wife of William Sharon. The principal evidence upon which she relied for the proof of her claim was a written document purporting to be a marriage

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contract. The extraordinary circumstances of the case; the vital questions of law and morals, and the millions of dollars involved; the conspicuous position of the defendant, a United States senator, and a man of great wealth and influence; the uncertain character of the plaintiff; and the startling incidents of the trial—all conspired to make it one of the most celebrated cases in the annals of California litigation. The judgment of the court was, that the alleged contract was not fraudulent, and that it was valid and binding. On the direct appeal from the judgment of the superior court to the supreme court of California, the judgment of the superior court was affirmed January 31, 1888, Justice McKinstry writing the main opinion, which was concurred in by Chief Justice Searls and associate justices Temple and Paterson. A report of the case appears in the seventy-fifth volume of the California Reports, first page. Subsequently, on an appeal from the order denying the motion for a new trial, the doctrine of the decision made in the seventy-fifth California was set aside, and the order of the superior court denying the motion for a new trial was reversed, and the judgment of the superior court, which had been affirmed by the decision in the seventy-fifth California, was reversed July 17, 1889. A report of the last decision appears in the seventy-ninth California, page 633. Between the dates of the two decisions of the supreme court the personnel of that body had been changed, three of the justices retiring on account of the expiration of their term of office. The case in some of its phases was carried on in the federal courts, and bore sensational and tragic fruits for years afterward. It excited world-wide interest, and while Judge Sullivan's decision seemed to commend itself to public opinion, it was criticised both favorably and unfavorably. Among the great journals, which, published at a distance and presumably unbiased, the *New York Tribune* characterized it as follows: "The decision of

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Judge Sullivan in the Sharon-Hill case may be a surprise to many. For while the case has from the first been full of surprises, and while the course of the plaintiff and her counsel have often been such as to create prejudice against her, there have been so many points incompatible with the hypothesis of bold, wholesale fraud that the most cautious observers have hesitated to form definite conclusions. But of Judge Sullivan's capacity and lofty integrity there has never been any question among the lawyers of California. He bears the highest reputation for fidelity to duty, diligence, and intellectual acumen, and any decision from him carries much more than ordinary weight."

In November 1884 he had been reëlected superior judge for a term of six years, beginning January 1, 1885. In 1886 he obtained the nomination for associate justice of the supreme court against the strenuous opposition of large moneyed interests and the mercenary politicians in their service. In presenting his name to the convention, a well-known delegate, whose remarks were received with general indorsement, said: "In the last election he polled 6,000 votes more than the head of his ticket. He is recognized by the master minds in his profession as their peer; but above all, he possesses that highest of god-given attributes, honesty. Take for example the celebrated case of Cox against McLaughlin, brought from another county to be tried before him without a jury. In such cases, involving the most serious responsibilities, lawyers and clients say, 'Let this man be our judge.'" Another member, in seconding his nomination, said: "He is regarded as a man of intellect, and his decisions are accepted as honest. Of character unblemished in public and private life, he resembles that French judge who, when Charles X. sent him word that a certain decision would be of service to the crown, answered: "This court renders judgment, not service." The leading republican paper said: "The convention went wild over Sullivan.

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Chris Buckley could not hold the San Francisco delegation against him." But when it came to election, the power of his enemies proved too great for the vigilance of his friends, the people. In 1888 he was again nominated for associate justice of the supreme court. After another struggle, not unlike that of two years before, and, as in that instance, he was defeated at the polls by the same influences. In little more than name, however, was his overthrow a defeat, for it carried with it the honors of victory. In the city of San Francisco, notwithstanding the most ingenious and persistent warfare of interested newspapers, and every other means of influence known in politics employed against him, he received a majority of 8,400 votes. The campaign resulted in the overwhelming defeat of the democrats generally, but his minority of votes in the state was only five hundred. In 1889, having resigned from the superior bench eighteen months before the expiration of his term of office, he resumed the practice of law in partnership with his brother, Matthew I. Sullivan, in which he is now actively and successfully occupied.

Married September 13, 1876, to Miss Helen Bliss, the daughter of Mr George D. Bliss, prominently engaged in the cattle business, and a California pioneer, Judge Sullivan has four children, two boys and two girls. Of magnificent physique, excellent health, and abundant good humor, he naturally has many friends whose society he enjoys; but being very domestic, he finds home the place of greatest comfort. One day in seven, the sabbath, he sets aside as sacred to religion, and to such form of recreation with his wife and children as they prefer.

As its president, or chief executive officer, he has been energetic in promoting the growth and efficiency of the Young Men's Institute, the aim of which, under the fostering care of the catholic church, is benevolence, and the improvement of its members morally, intellectually, physically, and socially. He was born

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and reared in the catholic religion, to which his father and mother were devoted. Proud of the history of the church, and assured of its excellence as a teacher of what concerns man most intimately in the present and for the future, he has never felt ashamed of or faltered in his allegiance to this faith. Prejudiced or interested persons have not scrupled to contort his religion into an argument against him in politics, on the ground that catholicism is antagonistic to our institutions, though I can discover no grounds to doubt either the honesty or the thoroughness of Judge Sullivan's Americanism. He is a graceful and forcible speaker; and being called upon to address the public on patriotic occasions, he has more than once defined his attitude on this topic. His candor and dignity of expression are such that it would seem to me difficult, though the record of his public service were not in evidence, for any unbiased mind to question his integrity or his reasoning. In an address on St Patrick's day, 1886, in San Francisco, he said: "It is not to be wondered at that the Irish people, proscribed mainly on account of their religion, should prize the mystic bond that held them together in the embrace of an enduring nationality. But to no one who has studied the history of Ireland can it seem strange that the Irishman's loyalty to his race and his faith should be blended in a manner so unique. It is not because the Irish catholic does not understand and fully appreciate the relative allegiance that he owes to his government and his God. The catholic citizens of the United States do not desire a union of church and state, a blending of functions essentially distinct. They do not wish, nor would they consent to, the ascendency of any church within the state. The Irishman would be the first, and rightly so, to resent the wrongs of a system under which he himself has suffered so long and so grievously. Grattan, the leader and the beloved of all the Irish people, as other leaders before him and since, was a protestant. He expressed the

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sentiment of catholic Ireland when he said: 'We hold the right of private judgment in matters of religion to be as sacred in others as in ourselves'; also when he said: 'The Irish protestant can never be free till the Irish catholic shall cease to be a slave.'"

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Peter D. Dean

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CHAPTER XV.

LIFE OF PETER DEAN.

[illegible] OF -ARRIVAL IN CALIFORNIA- MINING EXPERIENCE [illegible] OF THE SCHOONER HARRIET--A ROUGH NIGHT--MARRIAGE [illegible] TO-PRESIDENT OF THE PIONEER SOCIETY BANK [illegible] OF SENATOR- POLITICAL OPINIONS AND MEASURES [illegible] QUESTION--THE CHINESE QUESTION--APPEARANCE AND CHARACTER

Among the youngest of our pioneers, [illegible] whose career is replete with interest, [illegible] has encountered more of adventure, more of [illegible] tides of fortune, and accomplished more [illegible] life time than a dozen men of common mould, is Peter Dean, miner, merchant, contractor, banker, politician, and statesman.

A native of England, the genealogy of Mr Dean is traced far back to the days of the Saxon dynasty, where long before William the Norman set foot on its shores his ancestors were possessed of a goodly domain. Only within the last generation did the last remnant of this domain pass out of the hands of the family, and on a portion of it his father was born. In 1829, when Mr Dean was not yet one year of age, the latter removed to New England with seven children, three being added to his family after his arrival. Three of his family became members of the Massachusetts legislature, all of them attaining prominence as lawyers, merchants, and manufacturers.

His education completed, Mr Dean made choice of

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CHAPTER XV.

LIFE OF PETER DEAN.

GENEALOGY—ARRIVAL IN CALIFORNIA—MINING EXPERIENCE—VOYAGE OF THE SCHOONER HARRIET—A ROUGH NIGHT—MARRIAGE—JOURNEY TO IDAHO—PRESIDENT OF THE PIONEER SOCIETY—BANK DIRECTOR—STATE SENATOR—POLITICAL OPINIONS AND MEASURES—THE WATER QUESTION—THE CHINESE QUESTION—APPEARANCE AND CHARACTERISTICS.

AMONG the youngest of our pioneers, and yet one whose career is replete with interest, one who has encountered more of adventure, more of the vicissitudes of fortune, and accomplished more in a single lifetime than a dozen men of common mould, is Peter Dean, miner, merchant, contractor, banker, politician, and statesman.

A native of England, the genealogy of Mr Dean is traced far back to the days of the Saxon dynasty, where long before William the Norman set foot on its shores his ancestors were possessed of a goodly domain. Only within the last generation did the last remnant of this domain pass out of the hands of the family, and on a portion of it his father was born. In 1829, when Mr Dean was not yet one year of age, the latter removed to New England with seven children, three being added to his family after his arrival. Three of his family became members of the Massachusetts legislature, all of them attaining prominence as lawyers, merchants, and manufacturers.

His education completed, Mr Dean made choice of

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the legal profession, and to prepare himself was about to enter his brother's office, when in 1848 came news of the gold discovery in California, confirmed by later reports. Hither journeyed in the following year, over plain and ocean, the chosen youth of all the land, the bold, the strong, the venturesome, and among them Peter Dean, who with eleven others, styling themselves the Gaspee Mining company, set forth by way of Panamá, arriving in San Francisco, after a long detention at the Isthmus, in June of 1849, on board the steamship *Oregon*.

On the Tuolumne and Stanislaus rivers, Mr Dean had the usual mining experience, meeting with more than average success. While his comrades were pitching their first camp at the mouth of Woods creek, near the banks of the Tuolumne, he gathered within a few hours some $13 in gold-dust, thus solving all doubts of the existence of gold in paying quantities in the river-beds of California. During this summer of 1849 not only was the richness of the placers fully established, but somewhere, it was believed, in the Sierra was a huge deposit of the shining metal which the miner could dislodge with powder and pick, could fill his sacks and load his mules, and return to his native state with gold enough to build an altar to the idol of his heart. As one of the points where lay this treasure, it was rumored that on the south fork of the Stanislaus was a mountain so full of gold that at a distance of many miles the gleam of a metal was plainly visible. Among those who were lured to this western Ophir was Peter Dean, who set forth with his company early in August, packing on his back his blankets, pan, and pick. But after a few days' march they met a party returning, whose report was somewhat discouraging. They had seen no mountain covered with gold; but they had seen plenty of mountains covered with redskins. Nevertheless Mr Dean and his comrades went on their journey, until the savages becoming

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troublesome, and the prospect of gold of the faintest, they deemed it prudent to return.

After a further brief experience as a miner, Mr Dean established a ferry at a point on the Tuolumne just above the present town of Jacksonville. It was during the winter of 1850 that Mr Dean nearly lost his life by drowning, in an endeavor to save a boat that was being swept away by the breaking of a dam that he had built for mining purposes, and it was only due to his being an expert and fearless swimmer, and to great presence of mind, that he escaped from the seething torrent. Disposing of the ferry in 1851, he returned to San Francisco, where he met his friend Samuel Jackson, a lumber merchant of that city. Together they sailed in the schooner *Harriet* for Portland, where, after loading with lumber and produce, and putting out to sea, the vessel swept northward, and was driven by stress of weather into an inlet which by a singular coincidence bears the name of Dean. Provisions ran short, and finding it impossible to make their way southward, there they remained for more than forty days, living almost entirely on mussels. Finally, after many hardships, and more than one hair-breadth escape, they succeeded in reaching Steilacoom. On one occasion, while Mr Dean was approaching the shore in a boat, with two Indians for his companions, the craft filled with water, and but that he was a practiced and powerful swimmer, this biography had never been written. It was night, and extremely dark, and cold and wet. The prospect was somewhat cheerless, for they seemed fated to pass the hours without shelter, and in a drenched condition, in this chill northern latitude. But presently they reached a deserted camp, where a few boards of cedar afforded a slight protection from wind and rain. "I have seen many a hard night," says Mr Dean, "but this was the roughest one I ever passed in my life."

In 1852 we find Mr Dean established in business

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at Curtis creek, in partnership with his friend O'Donnell, and later in Mariposa. For several years thereafter his interests were mainly in southern California, where he engaged in various ventures, all of them resulting profitably. In 1859–60 he made a visit to the eastern states, and it was during this visit that he gratified a latent spirit for adventure by chartering a balloon, and in company with a couple of friends made an ascent from Providence, Rhode Island. The aerial ship passed over Rhode Island, Massachusetts, and a part of New Hampshire. In their third and final descent they landed on an island, where the car was caught in a tree, the body of the balloon becoming severed from its netting.

On his return to California he settled in Visalia, where he had already invested the greater portion of his surplus means. Here, on the 4th of March, 1861, the day of President Lincoln's inauguration, he married Miss Armstrong, a young woman greatly esteemed in social circles. In the following year, on account of his wife's failing health, he removed to San Francisco, where he profited largely by the mining excitement, which was then at fever heat, fitting out at his own expense a party which discovered the Slate Range mining district, some fifty miles east of Walker pass.

About this time gold was discovered in Idaho, and through the advice of a friend, who shared in the speculation, Mr Dean purchased a large band of cattle at Eureka, Humboldt county, expecting to find in that territory a profitable market. During the trip, which was made in the summer of 1863, he encountered many hardships, being on several occasions for two or three days without food or water. His cattle were scattered, and many of them captured by Indians, two of his men being killed while attempting to recover them. The remainder, however, reached their destination, and were disposed of at prices that yielded a profit on the venture.

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After remaining until the spring of 1869 in Idaho, where he secured a large number of government contracts, Mr Dean disposed of his various interests, and with his family visited the neighborhood of Puget sound. Here he made several judicious investments in timber lands and business properties at Seattle and Olympia, feeling assured that with the approaching completion of the Northern Pacific railroad this portion of Washington would be rapidly developed. A few months later he again removed to San Francisco, and in that city, except for a second trip to the east of a year's duration, he ever afterward resided.

In 1871 Mr Dean was chosen as director of the Pioneer society, in 1873 its vice-president, and in 1877 its president. After 1875 he was called upon to assume the duties of the presidency, the election of Mr Lick, whom ill-health disqualified from further service, being merely complimentary. Mainly through his efforts the society obtained from the latter an unconditional deed of gift to the valuable property on Market and Fourth streets, which before had been so grievously hampered with conditions as to render it unavailable. It was largely owing to his exertions, also, that the numerous lawsuits in which the estate was involved were brought to a favorable conclusion.

In the commercial and banking circles of the metropolis Mr Dean is also widely known. When the National Banking and Trust company became involved, he was appointed a director, in order to secure his assistance in winding up its affairs. For a similar purpose, when the Masonic and the Merchants' Exchange banks were compelled to go into liquidation, he was elected president of both institutions. That while attending to his other manifold duties, he successfully filled such varied and responsible positions, is a sufficient indication of the energy and executive ability with which he is accredited by all his associates.

As to his political career, Mr Dean was for many

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years one of the foremost of republican leaders. As early as 1861, when a resident of Visalia, he was nominated for the assembly on the union ticket, on this occasion displaying the courage of one who leads a forlorn hope, for the district was hopelessly disloyal. Throughout the war he was an earnest and able advocate of the federal cause, aiding with his utmost endeavor the interests of his party, and shunning no duty, however distasteful, that might promote its success. Only for a moment, and then in name rather than in deed, did he appear to swerve from his allegiance, when in 1875 he became a member of the independent convention, the party being called into existence by local issues, and by the urgent need of reform. This accomplished, he returned at once to the ranks of the republicans. In 1863 he was in the union state convention, and in 1877 he was elected to the state senate, also in 1878 being chosen a member of the republican state convention. In the senate his ability and experience in public affairs was speedily recognized, and his vigorous and well-directed measures have left a lasting impress on the annals of the state. To his skilful management is mainly due the defeat of a bill aimed at the public school system, whereby instruction in modern languages and instrumental music was to be discontinued, and the able speech which he made in its defence ranks among the best of his rhetorical efforts. In his opinion, whatever tended to lower the standard of the public schools tended to weaken them in the public esteem, and just so far operated to defeat the ends for which they were founded—in a word, tended to break down this bulwark of free institutions.

During his second term the senator introduced and secured the passage of a resolution urging congress to consider the policy of securing control of one at least of the transcontinental lines of railroad. On this question theories without number have been advanced, but it remained for a man of his practical

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ability to formulate a plan—embodied in the resolutions—whereby, without serious interruption to the existing order of things, the government might assume the ownership of the entire railroad system of the United States. The railroads play so important a part in the economy of our modern civilization, the prosperity of the country is so largely and so completely dependent upon them that, as he considers, to leave them in the hands of private and irresponsible corporations is to place the interests and welfare of the whole country at the mercy of those who are seeking solely their own interests. The following is a copy of the preamble and resolutions, which are well worthy of being preserved as the starting-point in a line of progress destined to be of vast and wide-reaching influence:

"Whereas it is conceded that the most just and efficient regulator of business is untrammelled competition; and whereas there are certain large corporations which from their magnitude and other self-evident causes are beyond the reach of such influence; and whereas, notwithstanding the state has the power, the difficulties of efficiently and at the same time justly legislating against the tendency to extortion and discrimination on the part of such corporations are so great as to seem almost insurmountable; and whereas the legislative conflict between the people on the one hand and such corporations on the other is demoralizing and against the best interests of society; and whereas, in the case of our great railroads, there is no other governmental authority than that of the national government competent to own and control such roads over their entire length; therefore, resolved by the senate, the assembly concurring, that our senators and representatives in congress be requested to urge the consideration of the ownership by the government of one transcontinental railroad."

On the water question Mr Dean took a decided stand, introducing a bill which provided that the

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water tax should be divided between the rate-payer and property owner, that at least one half the burden should be imposed on property. Although the bill was defeated, he has put on record a measure for which he has at least been accredited with the courage of his convictions, and one that when analyzed shows the soundness of his position. "My views," he remarks, "have not generally obtained, being opposed, as I believe, on unsound and unjust theories, and, as it seems to me, in the interest of property, and against the interests of the people. The effect of it has been to array one portion of the community against the other, and to array all classes of the community against the policy of the water company. The rate-payer, having to pay too much, has naturally attacked the water company; the property owner, contributing nothing, has been unwilling to make any change; and when any person occupying a political or influential position has desired to remedy this abuse, he has been charged with being in the interest of the water company. In the board of supervisors the property owner, to avoid any tax on himself, has attacked the water company, and the rate-payer, paying too much, has also attacked the water company —one from a selfish desire to avoid his share of the burden, and the other from a desire to lessen a burden that was onerous and unjust. The consequence is, that the matter has not been adjudicated and considered from the stand-point of equity and justice; and the singular fact has existed of a corporation being almost compelled as a matter of necessity to defend itself in the board of supervisors and elsewhere, possibly by the illegitimate use of money. This unjust and unwise policy has had and continues to have a pernicious and demoralizing effect on our local politics."

But perhaps his most important measure, though one for which with his usual modesty he gave to another the credit which was justly his own, was a

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bill providing for the registration of voters, and to secure the purity of the ballot and the proper conduct of elections. By a fellow-member a second bill was introduced containing only a few modifications of the one produced by Mr Dean, instead of offering these modifications in the form of amendments. By the friends of both each bill was favored, and with the result that neither was likely to pass. Thereupon, with commendable generosity, and with his habitual regard for the public welfare, he waived his personal rights in the matter, yielded to his rival the honor that justly belonged to himself, and thus secured the passage of a law whose benefits it is impossible to overestimate.

On the question of the remonetization of silver, which was discussed during this term, he took a decided stand in the negative, believing that a depreciated currency is always an evil, and one that affects the poorer and middle classes more than the wealthy; that it is in fact merely robbing one class of society in order to enrich another.

On the Chinese question Mr Dean has often expressed his opinions, and in no uncertain phrase. "I took a very active part," he says, "in the efforts that were made to free the coast from this curse, or at least to check its increase. I have always maintained that the presence of the Chinese among us meant simply the exclusion of an equal or larger number of our own population; that their labor has supplanted just that much white labor, has hindered to just that extent the growth of the country. Aside from this negative effect, the presence of a foreign element, and one that cannot be assimilated, is a source of weakness, a constant menace to our tranquillity and political stability. The Chinese do not increase our prosperity: they diminish it; they add nothing to our strength: they take from it much. They are the weeds in the fair garden of our civilization, whose presence is not only an unsightly blemish, an offence, but means just

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that much less of flower, just that much less of fruit. The Pacific coast will not enjoy the full measure of prosperity to which its natural resources entitle it until this evil is excluded forever from its shores."

In a great anti-Chinese meeting held some years ago in the Pacific coast metropolis, Mr Dean made an able and pointed speech, setting forth the evil effects of Chinese immigration, and the absolute need of restrictive, if not of prohibitive, measures. We may search in vain for a clearer statement of the case than is contained in that speech, and also in his occasional letters to the San Francisco press. "There is no law of population," he says, "that is less cavilled at, that is more definitely settled, than that the immigration of one race, to the extent of that immigration approximately, restricts any other competing immigration. In other words, the presence of the Chinese among us has kept out that many of our own race, and, as it is believed, several times that number." Alluding to the sentimental platitudes of eastern philanthropists he remarks: "When we find that our people are being driven out of employment, every avenue of trade being taken up by this Mongolian horde, that starts in upon the lowest level of occupation and gradually absorbs every kind of labor, rising through every grade until at present there is only about ten per cent of a large proportion of all the skilled labor that is done by our people, they must not come to us with this talk about the rights of men."

Senator Dean has always thrown the weight of his influence on the side of reform and purity in politics. When a member of the independent convention, one representing a party whose motto was reform, he observed that no mention was made of a reform more needed than any other, and that was in the civil service. He therefore offered as an amendment the following resolution which, though adopted by the convention and referred to the committee, was

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through negligence or other causes omitted from the platform: "Resolved, that no man should be removed from a simply appointive office for political opinion's sake, and that the political dogma that to the victors belong the spoils is demoralizing and pernicious."

For almost the lifetime of a generation Senator Dean has been occupied with public duties. He is an active member of several benevolent associations, also a past commander of the California commandery, royal arch chapter, and it was during his incumbency as commander that he took his commandery to Washington, District of Columbia. Now, at the age of fifty-nine, and with a constitution unimpaired by sickness or excess, he is still capable of greater and more sustained effort than are most men of half his years. Of massive frame, and more than medium height, with broad shoulders and large girth of chest, with a lofty and capacious forehead, clear blue eyes, and hair of light brown hue, his appearance is that of a man possessed of remarkable powers of mind and body, of will and intellect. Erect and graceful in carriage, he is active in all his movements, though slow and guarded in speech; in manner courteous and affable, and while repelling undue familiarity, never holding himself aloof from others, however humble their condition. His soundness of judgment and the courage of his convictions, united with remarkable energy and force of character, have won for him the position and influence which he enjoys. Among his friends he is known as one whose loyalty and steadfastness have never been shaken, however severely tried, while among his acquaintances none are more universally respected. For many years he has been a prominent figure in political and financial circles, and the fact that in most of the enterprises and associations with which he has been connected he has been called upon to take the lead, is sufficient evidence of the esteem and confidence in which he is held by the community.

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CHAPTER XVI.

LIFE OF CHARLES FAYETTE LOTT.

A Military Family—Revolutionary Days—Choice of a Profession—Overland to California—Law Practice—Senator and Judge—Opinions and Principles—Marriage—Character of Mrs Lott—The Family.

On the army list of Great Britain appears, during the earlier years of the reign of George I., the name of Captain A. G. Lotte, one of the ancestors of this long-descended family, whose sons, almost from time immemorial, were members of the military profession.

Some years before the declaration of independence, Peter Lott, the grandfather of Charles Fayette, removed with his brother Abraham to the United States, making their abode in New Jersey. On the outbreak of the revolutionary war the former organized a troop of light horse, and the latter was appointed captain in an infantry company. Two of their brothers who came to this country as officers in the British army, to fight for the half-demented monarch whose persistence in "the right divine of kings to govern wrong" cost him the fairest jewel in his crown, it is related that one of them was taken prisoner with most of his company by Captain Peter Lott, and becoming impressed with the justice of the American cause, and disliking to meet their brothers in battling for the right, they both resigned their commissions. Never-

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CHAPTER XVI.

LIFE OF CHARLES FAYETTE LOTT.

A[illegible]Y FAMILY—REVOLUTIONARY DAYS—CHOICE OF A PROFESSION—REMOVAL TO CALIFORNIA—LAW PRACTICE—SENATOR AND LEGISLATOR—FIRMNESS AND PRINCIPLES—MARRIAGE—CHARACTER OF MRS. LOTT—THE FAMILY.

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theless, like many of King George's officers whose sympathies were strongly with the revolutionary cause, they would not forswear their allegiance, and returned to England.

The war ended, Peter began farming in New Jersey, where was born at the settlement of Cranberry, in 1778, Charles Francis Lott, the father of Charles Fayette. After receiving a medical education, at the outbreak of the war of 1812, Charles Francis raised a company of light horse cavalry, was made its captain, and during the war of 1812 occupied a military station near the mouth of the Delaware river, at Red Bank, where he also held the position of divisional medical director. Later he practised his profession at Pemberton, New Jersey, where also he became a director in the Farmers' and Mechanics' bank, located at Mount Holly. Meanwhile he had married Miss Edith N. Lamb, the daughter of Colonel Jacob Lamb, whose homestead, adjoining the town, was a portion of a grant bestowed by George III. on Lord Pemberton, after whom the settlement was named. Here was the birthplace of their four sons and two daughters, of whom Charles Fayette, whose natal day was the 1st of July, 1824, was with one exception the youngest.

At Pemberton the quaker element predominated, and to this sect belong the family of the Lambs, whose faith in its tenets remains to this day unshaken. It was for the most part an agricultural community, though in the neighborhood were iron mines and the steel-works, or, as they were then called, furnaces, of Hanover and Speedwell. Here Charles attended school until, at the age of ten, he removed with his father to Trenton, where the family settled on the Waddell farm, of historic fame as the headquarters of General Washington during a portion of that ever-memorable winter when the continental army suffered at Valley Forge all that men can suffer from hardship, privation, and neglect. Within half a mile of the

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farm-house is the spot where the great commander landed after crossing from the Pennsylvania shore, and on the farm itself the British and Hessians were encamped when taken by surprise and captured or routed at the battle of Trenton.

At Trenton Charles continued his education, until, in the autumn of 1835, the family removed to Quincy, Illinois, and in the following spring to a farm near St Charles, Missouri, adjoining that of Edward Bates, who during the first term of Lincoln's administration was appointed secretary of the interior. Here for some two years he studied at the St Charles college, and for five years afterward at St Louis university, where in 1845 his education was completed. His favorite studies were the classics, mathematics, history, and natural philosophy, and in each of them his abilities and great zeal won for him the medals of his class. It may here be mentioned that among his fellow-students and classmates at the university was William T. Coleman, who played so prominent a part in the earlier history of California.

Such was the ancestry, training, and environment of Charles Fayette Lott, and no wonder that from such environment was developed a strong and self-reliant manhood, one firm of purpose, stout-hearted, and with a befitting, though never boastful, consciousness of its own strength. Above all, he was well able to make his way in the world, and now it was time for him to do it, or at least to set about the doing of it. The medical profession was his father's choice, but for this, after a brief period of preparation, he found himself unfitted, or rather let us say disinclined. Soon afterward, with his father's approval, he entered the law-office of Williams and Johnson, at Quincy, Illinois, where his eldest brother, Peter, was clerk of the circuit court. On the outbreak of the Mexican war, the latter, appointing Charles as his substitute, joined the American army, and as captain in one of its choicest regiments, nobly sustained at

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the battle of Buena Vista the martial repute of his family. It was probably in recognition of his services that in later years he was appointed superintendent of the San Francisco mint. Of the youngest of the brothers, named Bushrod W., it should also be stated that he is no less known to fame as the first mayor of St Paul, Minnesota.

In 1848, Charles, or, as we will now call him, Mr Lott, who for some time previously had attended to much of the law business of the firm of his preceptors, was admitted to practise in the supreme court of Illinois. As to his success it need only be stated that he was well able to hold his own among the most distinguished members of the Quincy bar, among whom were such men as Abraham Lincoln and Stephen A. Douglas. In the following year, however, partly on account of ill health, though more from a desire for travel and adventure, he joined a company of young men preparing for the overland journey to California. But to this there were two obstacles; first, the disapproval of his father, and second, the lack of necessary funds. With some difficulty he obtained his father's permission, though never his full consent, and the means he raised by mortgaging a piece of property of which he was the owner. Meanwhile he had received from Mr Douglas a number of books relating to the country through which they were to travel and whither they were bound, together with many valuable suggestions as to routes and systems of travel.

On the 1st of April, 1849, the party set forth from Quincy, Illinois, across the plains, travelling with mule-teams, on which was packed an assortment of mining-tools. Their provision they sent by steamer to St Joseph, where they crossed the Missouri, and from that point, as Mr Lott expresses it, "all they knew was to steer westward." On the incidents of their journey it is unnecessary here to enlarge. Suffice it to say that their experience differed not

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from that of many other pioneers, whose sufferings from hunger and thirst, from hardship and privation, have been a thousand times related. On reaching the Humboldt river, Lott, who had been chosen captain of his company, was appointed its spokesman at a mass meeting of emigrants, at which it was decided that the younger and unmarried men should proceed by way of the northern or Lassen route. Following this trail, and travelling by way of Rabbit Hole springs, Mud lake, and High Rock cañon, thence by Deer creek to the Lassen rancho and Feather river, at the end of September they found themselves at Long bar, when their journey was at an end.

At Long bar, where a party of Oregonians were mining, Mr Lott began his search for gold, working at first with pick, shovel, and pan, for as yet the cradle was not introduced near this locality. The winter he passed at Sacramento, recruiting his health, and returning, mined with fair success on the branches of the Feather river.

In the autumn of 1850 the county of Butte was organized, and as lawyers, especially good lawyers, were scarce in those days, he decided to practise his profession. Though always retaining an interest in the mines, his career as a working miner was at an end; and now for some forty years he has been recognized as one of the foremost legal practitioners of northern California. Except for the judge of the district court, Mr Lott was the only one acquainted even with the forms of legal procedure, and hence at the organization of this court was assigned to him the task of instructing the officers in their several duties. The clerk knew nothing of what was required of him, and had probably never been inside a court-room, and as to the sheriff, his knowledge of law extended not beyond the making of an arrest.

About this time Mr Lott's attention was called to political questions, which were then for the first time

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assuming importance in this section of the state. Though his first vote had been cast for Lewis Cass, during the campaign which gave to President Taylor the presidential office, his sympathies have always been with the democrats. To him is due the organization in his district of the democratic party, of which for a time he was, indeed, the only leader, though it was not until a year or two later that party lines were distinctly drawn, and as yet there were no very important points at issue.

In the autumn of 1851 he was elected to the state senate, among his fellow-members being several whose names have since become household words in California, such men as Broderick and Frank Soulé, as Jacob Fry and T. B. Van Buren. During his first session—the third of the senate—he framed and succeeded in passing a bill providing that the state printing should be let by contract, and to the lowest responsible bidder, thus securing a reduction to about one fifth of the charges prevailing before this measure was enacted.

Largely to his efforts was due the defeat, in the fourth session of the senate, of the infamous water-lots bill, the object of which was to authorize the sale by the state for a nominal sum of a number of valuable lots in San Francisco, below Montgomery and Sacramento streets, at that time submerged, but where now is centred the wholesale traffic of the metropolis. After an angry and protracted debate the vote resulted in a tie, and the bill was defeated only by the casting vote of the lieutenant-governor, somewhat to the surprise and sorely to the disgust of its supporters. For his determined and persistent opposition to this measure Mr Lott was roundly abused; but to himself and to his friends it has ever been a satisfaction to know that he did thus oppose it with all the strength of his influence, the force of his logic, and the power of his eloquence. At the time he was denounced as a filibuster by the very men to whom that epithet of right belonged; but is now uni-

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versally acknowledged that his attitude befitted one by whom the interests of the state were always preferred to his own.

Declining a renomination, at the close of his term Mr Lott devoted himself to his profession, forming a partnership with Warren T. Sexton, which continued until 1858, when the latter was elected judge of the ninth district court. Following the seat of county government, located first at Hamilton, then at Bidwell bar, and finally at Oroville, he erected there the first brick office building in Butte county, and in that building, since 1856, has been his law-office.

In 1869 he was chosen judge for the second, formerly the ninth, judicial district, composed of the counties of Butte, Tehama, Plumas, and Lassen, and in this position won for himself a reputation such as is accorded only to those who mete out justice with judgment, fearlessly, and with strict impartiality. Says one who admired or rather appreciated him: "Judge Lott has a clearer conception of the legal side of an issue than any man I ever met, and though on one or two occasions, which I distinctly remember, the law has appeared somewhat at variance with the strict justice, few, if any, ever doubted the correctness of his interpretation of our codes. This is the result, I think, principally of an excellent education and a well-balanced mind." Retiring from the bench at the close of his term, after a year's vacation, passed for the most part in central and southern California, he resumed the practice of the profession of which he is to-day one of the most able and distinguished members.

During his administration he took no active part in politics, believing that the urgent furtherance of political views and interests not consistent with the duties of the bench; a sound conviction, and one that other members of the judiciary would do well to lay to heart. It may, indeed, be said that his career as a politician, or rather as a statesman, came to an end

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with the close of his term in the senate, except that in 1859 he allowed himself to be elected chairman of the democratic county committee, holding that office throughout the civil war. Though a stanch democrat, he was ever a union democrat, striving earnestly, and not in vain, to hold his party to their allegiance. In his political views, however, he is opposed to any extension of the federal power, for, as he justly remarks, "the less centralization, except for matters necessarily federal, the better."

On other national questions, and especially on that of immigration, his opinions are equally pronounced. As to the exclusion of Chinese, he considers that while it may be to the advantage of the laboring classes, still, while other objectionable elements are admitted, it is not right that they alone should be rejected. "Immigration," as he pointedly observes, "without limit as to class or number, is not to be desired in the case of any nation"; an opinion which is shared by all the more advanced thinkers of the day. He favors, moreover, a complete revision of the naturalization laws, and would bestow the suffrage only on such foreigners as thoroughly understand and are in perfect sympathy with the American constitution, with American institutions, and with the Americans themselves as a nation and a community.

As to the tariff question, his motto is "a tariff for revenue only," and on this, as on most political issues, his opinion coincides with the accepted tenets of his party, not merely because they represent the creed of the democracy, or that as such he is to obey them, but because they form a part of his convictions, and on those convictions he has the courage and confidence to act. The judge has never been one of those who follow blindly in the beaten track because others have done so or are doing so. More than half a century of western frontier life, or of life in the still farther west, has fostered in him the faculty of self-reliance, of independent thought and action. It has

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ever been his custom to hear both sides of a question, without deciding prematurely on either, and if his conscience or his judgment forbade him to act in accordance with his party, there were none more ready to say so, to adopt, irrespective of party, the course that appeared to him right, though it might not always be expedient.

In connection with fraternal and other associations, no less than for his reputation as a lawyer, a judge, and a statesman, Mr Lott is widely known, and as widely respected, throughout the county and state of his adoption. One of the society of pioneers, and since 1850 a master mason, he has been for many years a member of the royal arch chapter, being elected past high-priest and appointed to the convention of high-priests. To him as grand commander of the grand commandery of knights templar of California was largely due the success of the conclave held in San Francisco in 1883. By him most of the arrangements were made which increased even the world-wide repute of the golden state for generous and free-hearted hospitality. To his efforts, also, as past commander of the commandery at Oroville, is partly due the organization of those at Oroville, Chico, and Lassen.

As president of the Oroville board of trade and of the Oroville citrus association, both of which in a measure owe to him their existence and prosperity, he has contributed largely to the common good. It was not until recent years that the culture of citrus fruits in northern California was established as a business, though in the gardens of several of the residents orange-trees yielded an abundant crop. At the suggestion of a visitor who was present at the first citrus fair held in Sacramento, one thoroughly versed in horticulture, a grove was planted as an experiment on the northern side of the Feather river. The result gives promise of vast developments, and that Butte county will contain erelong one of the great citrus belts of the state is now beyond a peradventure.

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It was in 1861 that Mr Lott began to turn his attention to other matters than law and politics. In that year he purchased on Big Butte creek a rancho of some 2,000 acres, forming a portion of the Neal grant, and this he still retains, planting it for the most part in grain and vegetables. In mining ventures he has invested freely, among others in the Gravel Range mine, a property yielding steady returns, and located by himself in 1866 on the borders of Plumas and Butte counties. Of a mine discovered at Willow bar in 1869, and afterward called the Yellow creek canal and mining company, he was also the locator. On the construction of a canal to convey to it the waters of Yellow creek, with a view to work the mine by hydraulic process, Mr Lott expended $80,000; but in the spring of 1887, when his task was completed and work begun on the claim, he was served with an injunction under the provisions of the mining débris act. True, not a pound of tailings could possibly have reached the Sacramento river, even from mines much nearer to its channel; but the law must be obeyed, even if it retards the development of the country's resources, and places its veto on those who expend their time and means on harmless and productive enterprises.

In conclusion, a word may be said as to the judge's wife and family, without which the story of his life, no more than his life itself, would be complete. In May 1856 he married Miss Susan F. Hyer, a native of Philadelphia, where her father was a leading merchant and manufacturer, one of those who have given to that city its commercial supremacy and its industrial development. The lady comes of a good American stock, her grandfather holding the rank of colonel in the revolutionary war, and being afterward elected to the Cincinnati society, of which her father is still an hereditary member. A woman of kindly and charitable disposition, whose presence is always welcome to the sick, the aged, and distressed.

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Of their children two only survive—Charles Fayette, who was born in April 1873, and Cornelia Dear, whose birthday was in January 1876. The son is a steady, bright, industrious youth, whose abilities and tastes incline to agriculture, and nowhere than in Butte county could he find a better field for their development. With the advantages of an excellent education, and of the training of tender and devoted parents, we may safely predict that he will prove himself worthy of their example, and of the reputation already accorded to him in the city and state of his birth. The daughter is a favorite, and deservedly so. Though somewhat high-spirited, she has much of her mother's temperament, and has shown herself in all respects deserving of the care and affection bestowed on her from earliest childhood. Among her accomplishments is a remarkable aptitude with pencil and crayon, and by those who have criticised them it is said that her sketches would do credit to one of twice her years.

To old Californians the face and figure of Judge Lott have long been familiar, with his five feet ten inches of stature, his compact and massive frame, his broad, high forehead, his intellectual features, bluish gray eyes, and the silken white hair and flowing beard which add to his dignified appearance. In manner he is natural, free from the slightest trace of affectation, and while treating all men as his equals, there is something in his quiet air of dignity which at once repels undue familiarity. In speech he is impressive, with an excellent command of language, and in enunciation clear and distinct. His tastes are of the simplest, and in perfect keeping with his character. A constant reader, he is also a great admirer of music, painting, statuary, and other branches of art, while enjoying with the keenest zest all that is beautiful in nature.

Throughout his long and useful career, Judge Lott has been in the truest sense of the word a citizen, one whose acts and aims have ever tended to his country's

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welfare rather than to his own. While among our argonauts there have been many noble specimens of manhood, there are few whose names are so worthy to be handed down to posterity as examples of what may be accomplished by well-directed effort, when combined with the many sterling qualities of which he is the possessor. As a lawyer, a judge, a statesman, as a leader in all enterprises tending to the public good, as one to whom northern California owes much of her prosperity, much of her assured and brilliant prospects, to him must be conceded a foremost rank among the builders of our western commonwealth.

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CHAPTER XVII.

GOVERNMENT—INTERIOR STATES.

ERA OF WONDERS—NEW AND STRANGE COUNTRIES AND PEOPLES—ARIZONA AND NEW MEXICO—AMERICAN OCCUPATION—SETTLEMENT OF UTAH—MORMONS AND GENTILES—POLITICAL AFFAIRS—EXPLORATION OF NEVADA—CARSON VALLEY—THE COMSTOCK LODE—STATEHOOD—INDIAN TROUBLES—SENATORS—TAXATION AND REVENUE.

AN era of marvels followed the conquest of Central America and Mexico. All previous explorations sank into insignificance as the wonders of the new world became disclosed. When the occupation of central Mexico had been consummated by the Spaniards, and the wildest imaginings hitherto conceived of exhaustless treasures and wonderful phenomena were verified by realities, no story was too marvellous to gain credence. If the ocean had at last been made to yield up the long-kept secret of its far-distant boundary in the west, this surely could only be the stepping-stone to the solution of more startling mysteries beyond. The most extravagant rumors were consequently accepted with a credulity that admitted not of doubt or questioning. Hence, Ponce de Leon's search for the fountain of youth, and the commencement of a series of expeditions in New Spain, undertaken for the discovery of the secrets and hidden treasures of unknown lands, and of a passage through the continent to the Pacific.

Though most of these expeditions were based on chimerical projects, they had for result the exploration of vast regions in different directions, and the ever-widening extension of Spanish supremacy. To

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exaggerated reports and consequent military expeditions was due the discovery of the country called at a later date Nuevo México, in which the modern territories of Arizona and New Mexico are comprised. In 1536 Cabeza de Vaca arrived at Culiacan in Sinaloa from the shores of Texas. He and three others, were the only known survivors of Narvaez' expedition in 1528 along the gulf-coast. After years of captivity and wandering they made their way almost across the continent, bringing with them the news that they had heard of great and wealthy cities lying somewhat to the north of the route they had pursued. This rumor induced the Italian Franciscan friar, Márcos de Niza, to go in search of them, taking with him a negro named Estevanico, one of the survivors alluded to, and who being sent in advance of Niza actually visited the towns of Cíbola. Estevanico, however, with most of those who accompanied him, was here killed by the natives, and Niza, having only obtained a distant view of the cities from a mountain summit, returned to Mexico, bringing with him an exaggerated account of their size and grandeur. His report led to Coronado's military expedition in 1540–2, during which an immense extent of territory was explored, and the discovery made of the existence of an agricultural people, considerably advanced in civilization, and residing in widely scattered groups of community-towns, located in the valleys of the upper Rio Grande, the Gila, and Colorado Chiquito, and their tributaries. But as to the main object of the enterprise, the adventurers met only with disappointment. They failed to find palaces whose walls were wainscoted with gold and whose floors were tessellated with the precious metals, or towns in which golden utensils were used by the inhabitants for the commonest household purposes. They only discovered industrious, thriving, and peaceably inclined communities, whom they soon made hostile by their outrageous treatment; on their departure they left behind them a just and

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righteous hatred and dread of the white strangers. To these aboriginal communities the Spaniards gave the name of los Pueblos, the development of which has already been discussed in the introduction to these volumes.

During the remainder of the sixteenth century, with the exception of the futile expeditions conducted by Fray Agustin Rodriguez, who suffered martyrdom in 1581, by Antonio Espejo, a rich citizen of Mexico, in 1582–3, and one in 1591 by Gaspar Castaño de Sosa, acting lieutenant-governor of Nuevo Leon, though several fruitless projects were entertained, to effect the permanent occupancy of the country, nothing was accomplished until 1598-9, when Juan de Oñate achieved the conquest of the region which now constitutes the territory of New Mexico. Oñate was the son of a conquistador, and was married to a grand-daughter of Cortés, descended from the royal line of Montezuma. A rich and prominent resident of Zacatecas, supported by the wealth and influence of the leading men in Nueva Galicia, he proposed to raise a force of 200 men at his own expense, and take possesion of the country for the king of Spain, in consideration of being made governor and captain-general of the acquired territory, with grants of land and certain honors and titles. His proposition was accepted, and after much delay caused by the opposition to his scheme made by rival competitors, he advanced up the Rio Grande by way of El Paso del Norte, and took possession of the territory which is now New Mexico, with little difficulty, the only trouble being a revolt, after submission, of the pueblo of Acoma, which, however, was taken and destroyed, the strength of the tribe being forever broken by the sanguinary punishment inflicted.

In 1604–5 Oñate explored the region comprised in the present territory of Arizona, but effected no permament occupation, and after his return from that expedition nothing is known of him except that in

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1608 he had ceased to be governor of New Mexico. At some unknown date during the period from 1605 to 1616 the villa of Santa Fé was founded. For eight decades the Spaniards ruled the land without opposition, and spiritual conquest having advanced step by step with military subjugation, numerous missions were founded. The government of the province was a strictly military one, and therefore arbitrary and oppressive, while the rigor of ecclesiastical rule caused still greater offence to the simple and superstitious Pueblos, who clung tenaciously to their aboriginal faith. Burdened with heavy tributes in produce and personal labor exacted from them by the authorities, they were incessantly subjected to cruel punishments, inflicted by the friars upon backsliders and infidels, while numbers, accused of practising in secret the unholy rites of their ancient religion, were put to death as sorcerers. Under this two-fold system of tyranny even the peace-loving Pueblo agriculturalists were driven to desperation, and urged by their priests, who still retained great influence, in August 1680 they broke out in revolt.

The moving spirit in this insurrection was an Indian of San Juan named Pope, who claimed to have formed an alliance with the spirit el Demonio of the Spaniards, and who took such precautions to keep his plot secret that he even slew his own son-in-law on suspicion of treachery. So sudden was the insurrection, and so effective in its operation, that the Spaniards were literally swept from New Mexico. Santa Fé was besieged and abandoned, and as the plan was one of extermination, neither man, woman, nor child, neither priest nor layman was spared. The settlers south of Santa Fé being timely warned, made their escape, but over four hundred victims, including twenty-one missionaries, were massacred. For ten years the Indians held possession of New Mexico, during which time Pope became unpopular and was deposed. In 1688, however, he was again elected chief, but died soon afterward.

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It was not until 1696 that the country was finally reconquered by Diego de Vargas, who was appointed governor and captain-general by the king, and entered upon his duties early in 1691. Vargas was energetic, brave, and zealous, and at a later date was rewarded for his services by the king bestowing on him the title Marqués de la Nava de Brazinos. While honor was thus awaiting him, he was being treated outrageously in New Mexico. In 1696 his term of office expired, and he was succeeded by Pedro Rodriguez Cubero, who, on charges of embezzlement and mismanagement preferred by the cabildo against Vargas, gratified his personal enmity by confiscating the ex-governor's property and casting him into prison, where he remained for nearly three years. On being released in 1700, the charges against him were fully investigated at Mexico, and he was exonerated from all blame. Being reappointed governor of New Mexico, he assumed office in November 1703; but in the following April, while entering upon a campaign against the Apaches, he was attacked by a sudden illness, and died at Bernalillo. He was buried in the parish church at Santa Fé.

From the opening of the eighteenth century the submission of New Mexico was permanent, serious trouble being caused only by the Apaches and other savage tribes. When the northern provinces of Mexico were organized in 1776–7 as the Povincias Internas, the change only slightly affected New Mexico. It merely deprived the governor of his title of captain-general and made him subordinate to the comandante-general instead of to the viceroy, without, however, interfering much with his military rule. The first regularly appointed governor under the new system was Juan Bautista de Anza, who assumed office in 1778. Anza was a native of Sonora, a man of excellent character and considerable ability, while his great experience in Indian warfare made him specially adapted to the position of ruler

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over a frontier province. He engaged in a successful campaign against the Comanches, which resulted in the killing of their famous chief Cuerno Verde and other prominent leaders. During his administration small-pox carried off over 5,000 of the Pueblos, which lessened their population to such an extent that Anza considerably reduced the number of the missions by consolidation, a measure which provoked much opposition on the part of the friars. He was succeeded in 1789 by Fernando de la Concha.

Down to the termination of Spanish supremacy no change was effected in the system of government in New Mexico; it remained essentially military, the governor being both political and military chief. The remoteness of the province shielded it from the influence of the great struggle for Mexican independence, and few events occurred to interrupt the monotony of life in the province with its attendant helplessness. With the exception of some increase in the Spanish population at a few points, the settlements remained in the same condition, neither progressing nor retrograding. No new developments of industries are observed; the friars, having lapsed into indolence and indifference, took no care to increase the number of Indian proselytes, or instruct the neophytes; there were no colleges or public schools, and the recording pages of educational development are all but blank.

New Mexico remained one of the provincias internas until January 31, 1824, when it was joined to Chihuahua and Durango, and the Estado Interno del Norte thereby formed. In July following, however, it was segregated and became a territory of the republic, with practically no change in the old form of government. A kind of legislature, known as the diputacion provincial, was formed, but it had little or no influence, the power of the governor remaining almost as arbitrary as ever. In 1835 Perez became governor. Hitherto that office had been generally filled by natives or old residents in New Mexico, and

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as Perez was a stranger, an unreasonable prejudice was entertained against him, which culminated in a revolt in 1837–8. The outbreak took place in a northern town, and the rebels, largely composed of Pueblos, assembled at La Cañada in great numbers, and on August 3d issued a plan. The unfortunate Perez, who was really an excellent man, marched against them with all the force he could muster, but when he met the enemy most of his men deserted him, and he was compelled to flee with a few companions. A few days after he was killed with a dozen of his associates, and his head sent into the rebel camp. Santa Fé was then taken possession of by the insurgents, and José Gonzalez, an Indian of Taos, was elected governor. The predecessor of Perez had been Manuel Armijo, who, moved by ambition, is accused of having secretly fomented the revolt which he hoped to turn to his own advantage. And such, indeed, was the case. On the election of Gonzalez, he pronounced against him, raised a force and marched to the capital, Gonzalez retiring northward. Having caused himself to be recognized as acting governor, he reported the condition of affairs to the Mexican government, which sent him a reënforcement of 300 men under Colonel Justiniani. In January, 1838, the rebels were defeated in battle, and Gonzalez and several of his associates were captured and shot. Armijo was rewarded for his crafty and self-interested dealings in connection with this revolt by being confirmed for eight years in the position of governor and comandante-general.

During his administration New Mexico was invaded, in 1841, by an expedition fitted out by Lamar, the president of the republic of Texas, which, without a shadow of right, had assumed the Rio Grande as its territorial boundary. Governor Armijo displayed great energy in adopting measures to repel the intruders; and favored by the famished and distressed condition to which they were reduced by their long

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and devious march across the intervening deserts, he compelled them to surrender without firing a shot. The Texans were sent to Mexico, where they were confined in different prisons, and were finally released by Santa Anna. This inroad was succeeded, in 1843, by an attempt by Colonel Jacob Snively to capture the caravan bound to Santa Fé, which was unusually rich that year; the expedition proved a failure, however, owing to the precautions taken by Armijo for its protection.

When the war between the United States and Mexico broke out, Santa Fé was taken possession of by General Kearny, in August 1846, without opposition, Governor Armijo, who understood well that effective resistance was hopeless, having retired southward after making a mere demonstration to oppose the enemy in Apache cañon. Kearny presently issued a proclamation announcing his intention to hold the department as a part of the United States under the name of the territory of New Mexico, and for many days representatives of other towns, and of the Pueblos, presented themselves and offered submission. Having organized a civil government, the general at the end of September set out for California. After his departure, matters did not progress smoothly, and by December previous rumors of intended revolt assumed so definite a nature that many arrests were made. The leaders, however, Tomás Ortiz and Diego Archuleta, escaped to the south. Colonel Price was at this time in command of the military force numbering 2,000 volunteers, whose overbearing conduct, frequently culminating in outrage and openly expressed contempt for the Mexican population, brought upon them hatred and a desire for revenge.

The smouldering embers of revolt were constantly fanned by a few conspirators, and in January, 1847, burst into a flame at Taos, where, on the 14th, Governor Bent, Sheriff Lee, and three others were killed by the Pueblos of that place. The revolt now as-

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sumed some magnitude, but was locally suppressed by Colonel Price after several engagements, which terminated in the capture of Taos, February 4th. Hostilities, however, continued in the east of the territory till July, while the Apaches and other wild tribes became exceedingly troublesome on the Santa Fé trail.

Military rule in New Mexico properly ended when, by the treaty of Guadalupe Hidalgo, May 30, 1848, the territory became a part of the United States; but the authorities at Washington decided that the government in power at the termination of the war must continue until congress should provide a territorial government. This state of things lasted till September, 1850, when New Mexico, Arizona, and a small part of Colorado were formed into a territory under the name of New Mexico. The new government went into operation in March, 1851, the first governor appointed by the president being James S. Calhoun, who had resided in the country for some years as superintendent of Indian affairs. Governor Calhoun, who was inaugurated March 3d, was honorable in his intentions, and possessed considerable executive ability, but being intemperate was for some time unfitted by illness for the discharge of his duties, and died on his way to the States in June 1852.

New Mexico, thus organized, became the ninth military department of the United States, a force of from 1,400 to 1,800 men being distributed down to 1858, at widely distant forts. After that the number of the troops was increased to from 2,000 to 4,000, occupying some twelve or fifteen military posts. The duty of these detachments was to protect the inhabitants from their Indian foes; but when the vast extent of territory which they were expected to guard is taken into consideration, it will be recognized how thoroughly inadequate was the force employed. The number of wild Indians within the borders of New Mexico was not less than 17,000, while savage tribes

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in the south, west, and north frequently extended their raids into the territory. The consequence was that the country was hardly ever free from Indian depredations, though the troops in hundreds of toilsome campaigns did all that was possible, with their limited numbers, to suppress them. The government at Washington adopted no definite policy, and for years this petty system was pursued. When the civil war broke out New Mexico was invaded by Texan confederates, and the troops were withdrawn from their service against the Indians, the people being left to defend themselves as best they could; but on the expulsion of the invaders in 1862 General Carleton turned his attention to the subjugation of the savages, and initiated at last a plan of operations. Two modes of procedure had long been subjects of discussion, namely extermination or feeding. Carleton combined these propositions; he entered upon an energetic campaign, taking the savage tribes in detail, chastising them severely in the field, and removing all captives to Bosque Redondo, where Fort Sumner had been established. All propositions of peace were promptly rejected; truces and treaties, which in the past had been so repeatedly broken by the savages, were no longer entertained, and a system was inaugurated which, though slow in its working, was finally successful. Their general incarceration, however, was but slowly accomplished, after numerous experiments, amidst mismanagement and want of foresight, and during which were frequent abandonments of the reservations by refractory Indians and renewals of depredations.

At the close of 1861 New Mexico was invaded by Texan confederates under the command of General Sibley, a major in the United States army, who had espoused the southern cause. Negro slavery did not exist in the territory, nor did the inhabitants wish for its establishment. It is true that two forms of slavery existed, that of Indian captives who were bought

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and sold, and the system of peonage, or voluntary servitude for debt, which involved no loss of civil rights, no sale of services, or legal entailment of servitude on the children of peons. The first system was based on old-time custom only, and was abolished by the emancipation proclamation of 1865; while peonage was sanctioned by territorial law and long prevailing Mexican usage. It was abolished by act of congress in 1867. The inhabitants of New Mexico, therefore, had no leaning to secession principles; at the same time, apathetic as they had ever been with regard to institutional changes, their loyalty to the union was not expressed with exuberant enthusiasm. They were quite willing to let matters take their course and accept the result, provided they were unmolested in their *dolce far niente*. From this indifference, however, they were roused by the invasion of their territory by their old foes, the Texans, their national hatred of whom was above all political considerations. Thenceforth their adherence to the union was emphatically expressed and actively maintained. Though at first the invaders carried all before them, defeating the federal troops and New Mexican volunteers, and occupying Santa Fé, they sustained a repulse at Apache cañon, March 28, 1862, at the hands of Colorado volunteers, who, under Colonel Slough and Major Chivington had hastened to the assistance of New Mexico. This was the death-blow to the attempt of the Texan confederates to get possession of the territory. Sibley retreated southward, and by the beginning of July New Mexico was freed of the invaders. Apart from the calamity of war, this invasion entailed additional disaster upon the country, occasioned by the compulsory withdrawal of the troops from the different forts to the seat of war. On the departure of the soldiers the Indians threw off all restraint and raided the country with impunity. This condition of affairs lasted till 1863, when, as already narrated, General

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Carleton took the matter in hand and checked their depredations.

In 1863 Arizona was detached and organized into a separate territory, since which time New Mexico has been ruled by a succession of eight governors, namely, Henry Connelly, Robert B. Mitchell, William A. Pyle, Marsh Giddings, Samuel B. Axtell, Lewis Wallace, Lionel A. Sheldon, and Edmund G. Ross, who entered office in 1885. Most of these rulers discharged their duties honestly, and with a watchful care for the requirements and welfare of the territory. Governor Mitchell, however, became embroiled in discord with the legislature to such an extent that laws not approved by him were sent to congress for confirmation, while a petition for the abrogation of his absolute veto power was granted by an amendment of the organic act in 1868. With regard to the members of the legislative assemblies, the majority has always been represented by a large preponderance of natives of Spanish origin, notably so during later years. Frequent efforts have been made to obtain the admission of the territory into the union as a state, but though the population is sufficient to authorize such a change, political considerations have hitherto defeated New Mexico's aspirations.

As narrated in the introduction to these volumes, Spanish and Mexican occupancy of the territory now called Arizona was confined to a very limited area, extending from Tucson southward. Wild Indian tribes remained in undisputed possession of the main portion of the region, while the Pueblo communities were unmolested, except by the occasional intrusion of zealous friars, whose efforts to extend the domains of the church in that direction were signally unsuccessful. So precarious, indeed, was the hold of the settlers, even in the small district occupied by them, that, on the acquisition of the territory by the United States in 1848, most of the settlements had been

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abandoned, Tucson, Tubac, and a few other settlements alone having been able to withstand the encroachment of the Indians. In December of the same year Tubac also was abandoned after sustaining an attack in which several lives were lost.

With the commencement of the aggressive war waged against Mexico by the United States, the unknown regions of Arizona began to be visited and explored by Americans In 1846 General Kearny, marching from Santa Fé, crossed the entire width of the territory to the junction of the Gila with the Colorado; a few months later he was followed by Lieutenant-colonel Cooke with the Mormon battalion, and after the discovery of gold in California, a tide of immigrants swept across the country, which thereafter was destined to be no longer a land closed against explorations. As early as November 1849, a ferry-boat was placed on the Colorado at Camp Calhoun, by Lieutenant Cave J. Coutts; and it has been estimated that the number of immigrants who crossed that river before the end of 1851 was not less than 60,000. In March of that year Fort Yuma was established by Major Heintzelman on the California side, and in 1852 the first steamer, the *Uncle Sam*, was placed on the Colorado. In 1851 the first government exploration of northern Arizona was made by Captain L. Sitgreaves, who, proceeding from Zuñi, crossed the country just above the 35th parallel to the Colorado, down which river he travelled south to Fort Yuma, where he arrived at the end of November. Lieutenant A. W. Whipple, who was engaged in a survey for the Pacific railroad, crossed somewhat south of Sitgreaves' route in 1853–4. These and following explorations opened the way later to prospectors, who soon discovered that this hitherto unknown country was fabulously rich in mineral wealth.

Meantime the immigrants into California had been traversing territory belonging to Mexico, according

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to the boundary agreed upon by the treaty of Guadalupe Hidalgo. In 1854, however, what is known as the Gadsden purchase was completed, securing for the United States an increase of territory and a route for a southern railroad to California. After this, forts Buchanan and Breckenridge were established, wagon-roads were opened, a stage-line was established, and the American population increasing, rich mines were discovered, and a general progress was observable. Then followed a collapse. In 1861 the secession of the southern states made its influence felt in Arizona. Public sentiment was generally in favor of disunion, and at a convention held in Tucson, the territory was declared a part of the confederacy. In July of the same year Lieutenant-colonel John R. Baylor entered the Mesilla valley and took possession with a Texan force, whereupon the officers in command at forts Buchanan and Breckenridge were ordered to abandon those posts and march to the Rio Grande. The Indian tribes, who had yearly been growing more and more hostile under the aggravation of mismanagement and injustice, had gone on the war-path almost simultaneously in the preceding year, and they now regarded the departure of the soldiers as an admission of the white man's inability to cope with them. They fell with fury on the settlers, killing all who were not fortunate enough to escape or take refuge in Tucson, which afforded shelter to a few hundred who remained. For more than a year the savages were absolute masters of the territory.

In February 1862 Captain Hunter marched from Mesilla with two or three hundred Texans and occupied Tucson, but news of the approach of a strong force of volunteers from California caused him presently to retire, and in May Lieutenant-colonel West raised again the union flag over Tucson. Henceforth Arizona was kept well in hand, the military posts were garrisoned by loyal Californians under Major David Ferguson, and her secessionist proclivities were

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eradicated. During this and the following years of the war the soldiers were engaged in fighting the Indians and prospecting the country for mines.

By an act of congress passed in February 1863 this portion of New Mexico was made a separate territory, under the name of Arizona, John N. Goodwin of Maine being appointed its first governor by President Lincoln in March. Fort Whipple, lately established by the California column, was proclaimed by Goodwin as the temporary seat of government, and there the officials arrived in January 1864. In May the fort was removed to its present site, and near it was founded the town of Prescott, which became the permanent capital since 1877, though not without opposition on the part of Tucson, where, in fact, the five sessions of the legislatures preceding that date were held. Goodwin was succeeded in 1865 by Richard McCormick, whose administration terminated in 1869. Since then A. P. K. Safford, John P. Hoyt, John C. Frémont, John J. Gosper, F. A. Trittle, and Mr Zulick successively held office as governors. The last named, being appointed by President Cleveland in 1885, is a democrat, his predecessors having been republicans. These rulers have, for the most part, been honorable and intelligent men, though governors McCormick and Safford, whose administrations were exceptionally protracted, identified themselves more thoroughly with the interests of the country.

After the organization of the government immigration set in steadily so that, whereas in the dark period of 1861–3 the white population was not more than 500 or 600, it can hardly have numbered less than 75,000 in 1886. Special mention must be made of the Mormon settlers, who, since 1876, have established thriving towns on the Little Colorado, Salt river, the San Pedro, and the upper Gila. These colonists are justly regarded as among the best who have settled in Arizona, being quiet, industrious, and

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unobtrusive. By steady perseverance and resolution they have reclaimed from the desert large tracts of land, which they have successfully placed under cultivation. Their chief settlements are Sunset, St Joseph, and Brigham city on the Little Colorado; Lehi and Mesa city on Salt river; St David, Curtis, Graham, Layton, and McDonald on the San Pedro; and Pima on the upper Gila. The leaders of these Mormon colonists were, respectively, in the above order of establishment: Lot Smith in 1876; David W. Jones, and Jesse H. Perkins, 1877 and 1878; P. C. Merrill, 1878; and Joseph K. Rogers, 1879.

Utah was settled by a people, who, like Israel of old, believed themselves under the more immediate guidance of the Almighty. They accepted the Hebrew scriptures, the whole of them, old and new testament, as the veritable word of God, and endeavored to follow the same to logical conclusions. If visions and miracles once obtained, and God is unchangeable, why should they not occur now? If slavery, polygamy, and blood-atonement were ever right in the eyes of a righteous God, why should they not be so now? Slavery, however, the Mormons never advocated; and in addition to the acceptation of all the tenets of the Christian, they claimed a new and special revelation at the mouth of Joseph Smith.

Nowhere else, among all the systems of government at present under consideration, do we encounter a pure theocracy. It does not seem to harmonize in every respect with a pure democracy. In a government of God, where material as well as eternal interests are promulgated largely upon a coöperative plan, that part of the theory of the United States government, which invests in the unit all the several powers and prerogatives found in the aggregate, is subverted, or made null. It was never contemplated in

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our political system, that men would combine to carry elections for any other purposes than those of public utility or private rascality; coöperation for material benefits on a religious basis was never contemplated by the founders of this government. Neither, for that matter, was the elevation of low Africans or low Europeans to the rights and dignities of intelligent and responsible American citizens.

The church of Jesus Christ of Latter-day Saints was organized upon a national basis, as well as for spiritual purposes. Government, as originally delegated by God to the prophet-founder of the church, was forever thereafter vested in him, and in the line of legitimate succession. It should be the aim of the leader of the church, from a proper interpretation of the transmitted gospel and history and special divine revelations, to direct earthly as well as heavenly affairs. Following the examples of the Hebrew leaders, there was found a need of assistants; and the necessity was recognized of attaching followers to the common cause, and of giving position to influential persons, at the same time holding out the hope of similar advancement to others. And so was instituted a graded priesthood, with deacons, elders, bishops, and councillors, who were limited to twelve, and constituted a standing advisory body with partly legislative power. Two special councillors were associated with the prophet to form the first or highest presidency, although their position was little more than a nominal dignity, since their head ruled supreme under the immediate guidance of divine revelation. In due time was chosen a select twelve as apostles, in imitation of Christ's companions, and in recognition of the superior skill and influence displayed in commanding men by precept and practice. With them lay rulership during an interregnum. This elevation of the leading men was prudent and politic; but there was some danger in bringing into nearness of relationship a too great ability or am-

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bition, unless held in strict subordination. Perfect fellowship and perfect self-sacrifice on the part of both men and women are among the leading tenets of the church of Latter-day Saints. Those rites and customs the most condemned by their enemies are to them the most treasured of their faith, sooner than yield which they are ready to die. Tithes they cheerfully pay, though not compelled to do so by any law; in return they secure good standing in society and the church; indeed, this contribution is, as the Mormons believe, the price of all the blessings that God and man can give, and these comprise all blessings. both in this life and the life to come.

Born of humble parents, and reared without much education or aim in life, Joseph Smith fell into marvellous ways; and whatever may be our opinion regarding his religion, the fact remains that it was established. A considerable number of people, both at Kirkland, Ohio, and Nauvoo, Illnois, enough to constitute a large community, accepted his teachings, and acknowledged him as a prophet of God, and his words as conveying divine intelligence direct from the source of all wisdom. Driven with his followers from the states of New York and Ohio, he was murdered in Illinois, sealing his mission with martyrdom, to the great strengthening of the faith.

Thus the task of Joseph Smith was fully accomplished; at the time he laid it down, the work was so far advanced that in spirit he could thenceforth serve it better, leaving to more practical hands the further embodiment of his plans. He was a man of evident genius for his mission, moulding thousands to his thoughts; but his originality extended little beyond spiritual matters, wherein exalted oratory could kindle a life-stirring enthusiasm, and personal magnetism attract followers. In material affairs he was guided by tact to embrace opportunities, rather than seek out and adopt them. He was an inspiring leader

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rather than a cool and prudent general, such as was required for the inauguration of a crusade or the carrying out of a campaign.

For what followed the driving out of the saints from Illinois, his successor, Brigham Young, was more competent than he. To Brigham's practical genius is mainly due the creation of a flourishing state in the wilderness of Utah, and the elevation of Mormonism from a struggling sect to an influential community. This achievement implies the possession of strong traits; traits which were implanted by the sturdy character of a father who had fought in the revolutionary war, and maintained, as a small farmer, a constant struggle with poverty. Brigham's aspiring nature revealed itself in more varied pursuits for a livelihood, in different mechanical efforts, which served to implant a bent for novelty and a curiosity for knowledge, while affirming his self-reliance and adaptability. The father had drifted with his family from Massachusetts to Whitingham, Vermont, where Brigham, the seventh child, was born on June 1, 1801, and thence to New York state, where Mormonism gained one of the sons. The latter did not join the church until 1832, at which date it had acquired considerable influence, but he atoned for the delay by bringing the entire family into the fold, and concentrating all the influence of his strong nature on the cause. His reward came quickly, for within three years he rose from elder to apostle, and displayed as missionary a vigor of appeal and practical illustration which struck home where mere eloquence failed.

He attached himself to the prophet, who on one occasion was indebted to him for his life, and reached so prominent a position as to direct, during the imprisonment of the leader, the settlement of the Mormons in Illinois. Meanwhile the apostasy and deaths of others advanced him to the rank of senior apostle and head of the council. Joseph could not fail to observe the weighty qualities of his lieutenant, so much

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more fitted than his own for the work of migration and colonization which lay before them. Perhaps he yielded to jealousy, for Brigham was sent on a mission to distant England, but his ambition had been aroused for a wider exercise of power, and he returned a year later and persuaded the prophet to issue a revelation relieving him of expatriation.

The removal of Joseph by assassination, on the part of an Illinois mob, was expected by many to result in dissension among his followers, under the machinations of discord, fear, and personal ambition. Indeed, the first to step forward to secure the honor was Sidney Rigdon, one of the best educated and most eloquent preachers in the society, who had given direction, point and form to its theology, but who lacked the essential qualification for a leader. He had become soured and driven into semi-rebellion by Joseph's opposition to his worldly and too selfish ambition, and in his present resolve to help himself he only roused the other chiefs to unite against him.

This exactly suited Brigham Young. Shrewdly holding back his own aspirations, he appealed to the vanity and interests of the apostolic body by making common cause with them, and declaring that the keys of the church should remain in their possession. The apparent abnegation of so redoubtable a member had also its effect. Rigdon was ignominiously defeated and retired into obscurity. Brigham, as senior apostle, wielded the controlling power, and was in 1847 formally proclaimed president of the church. It was an evolution of the fittest in Zion.

Brigham Young was a great man, measured by his achievements, and far superior to those around him in intellectual force, which, combined with personal magnetism and physique gave weight to his will and opinion, and maintained autocratic sway over a mixed community. He may or may not have been an unquestioning believer in the doctrines of the church, but he was bound to it, as he believed, by every in-

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terest in this life, and in the life to come, and thus was imparted earnestness and zeal which, directed to whatever cause, formed a host in themselves. The success of the movement inspired him with the confidence and assurance which begets further triumphs. Here was his life task, to which all the powers of mind and heart urged him on. His strength lay revealed in a ready adaptation to the exigencies of pioneering and governing, of subduing alike a wilderness of nature and the passions of men; and this without so blind a devotion to the tenets of the church as to imperil colonization. He possesssed great administrative ability, combined with admirable foresight and knowledge of human nature. His revelations and instructions were of the practical kind, all in the direction of greater comfort and prosperity, cheering alike to followers and leaders. He ruled as he rose, as indeed all religionists rule and rise by appeals to self-interest; he was less a prophet than a king, less an idealist than a political economist. His superiority was native to him, expanding daily in strength and influence.

He fitted his position also in person. His compact frame, a little above medium height, and gradually growing portly, was full of energy and of the vigor of manhood; strong in nerve and muscle, yet with a dignified and somewhat imposing bearing. On his features were delineated shrewdness, tact, and the resolution of an all conquering will, the will of a man who held perfect control of himself and was well fitted to take control of others.

A growing hostility emphasized the evils of association with gentiles, which threatened constantly to unravel the fabric woven with so much labor. A new home must be sought so remote as to insure against present contact with opposing religions, and this for the peace of the flock as well as to gain time for the church to root itself firmly in the new soil, ready

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to undergo whatever winds of adversity were destined to blow against it. These considerations counseled also the selection of Utah, rather than the more inviting Pacific shores for settlement, the latter beginning to be at the time the goal of an inflowing rabble. Brigham planned the exodus in a manner which ensured it against much hardship and danger, and one section of 5,000 reached its destination almost without the loss of a life. The soil was subdued by irrigation, and many of the comforts lost by interrupted intercourse with the east were supplied by building up manufactures and opening up local resources. Settlements spread rapidly under the constant addition to the population by systematic proselyting in all parts of the world, until they extended into the adjoining territories, centering round a number of flourishing towns, Salt Lake City, as the capital, leading in 1883 with 25,000 inhabitants, or one seventh of the total for Utah.

This growth, and the influx of gentiles consequent on the California gold fever, which pushed the territory into prominence as a half-way station for traffic, and an important portion of the United States, called for establishment of the form of government required by the republic. The attitude of California presented a pleasing suggestion for Mormon aspirations; and not content with the territorial organization pertaining to the small community of 1849, its leaders framed a constitution and a provisional government for a state, denominated Deseret. The limits were from the Rocky mountains to the Sierra Nevada, and from Mexico to Oregon, including a strip of coast in southern California, partly with a view to offset paucity of numbers by extent of domain, and so strengthen the chance of consent by congress. In statehood alone lay now any hope for such self-administration as might protect their institutions, and guard against a too rabid opposition. The open avowal of polygamy tended to the refusal of statehood and of the

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Mormon delegates at Washington, and the result was a territorial organization under the name of Utah, circumscribed in the south by limiting its extent to latitude 37°. Brigham Young was retained in his position of governor, and the Mormons obtained a proportion of the offices later filled by the federal authorities.

They accepted the alternative as a temporary measure, continuing to apply at intervals for state sovereignty, and retaining, indeed, for years, a shadow of the provisional self-government in an unauthorized state assembly, which, after each session of the territorial legislature, reënacted the laws passed therein. Their peculiarities were especially preserved in the administration of the states, corresponding to counties, and their ward subdivisions, each in charge of a bishop. No political parties were tolerated among the Mormons. They voted purely as directed by their spiritual chiefs, yielding without a pang republican rights and principles to sustain a greatly prized hierarchy, swayed by the will of the leader. The increasing number of foreigners—for the Mormons considered themselves a distinct and peculiar people—unused to the ballot, favored the procedure. Justice was administered under a code based on church doctrines, and in order to frustrate the interference of federal district courts, probate courts were instituted by the Mormons in each county, with a jurisdiction so extensive as virtually to supplant the higher tribunals. The faithful were, moreover, opposed to litigation, preferring simple, speedy, and equitable arbitration. Public affairs were in every direction so manipulated as to leave as little labor or influence as possible to federal officials.

On the other hand, taxation was nowhere more lightly or equitably adjusted. There may be political "bosses" among ecclesiastical leaders, but if so, they exist more for the benefit of the community than for themselves, and their loftier, even if ambitious, aim is seldom tinged by the usual official bribery and

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greed manifest among the gentiles. There were no rings of rascality to enrich individuals at the public expense, and Utah is practically free from debt. In 1865 the territorial and county taxes were not allowed to exceed one per cent of the assessed value of property, while for school purposes they seldom exceeded one-fourth of one per cent. In 1887 the territorial and school rate was only six mills on the dollar, counties being limited to the same rate, and cities to five mills on the dollar for municipal expenses, and the same amount for street work. The assessed value of property, ranging from 20 to 50 per cent of the real value, stood at $30,800,000, yielding $185,000 for territorial and school purposes. Notwithstanding the low rate, public improvements are widely distributed, showing economic expenditure. One half of the money received from taxes was not, as is too often the case in other territories and states, unblushingly stolen or misapplied by professional politicians, demagogues, or hungry hangers-on. The income from tithes was placod in 1880 at $450,000, which is not larger in proportion to the population than the amount expended for religious and charitable purposes in other states. The federal revenue averaged $40,000 for a score of years, and has now risen somewhat. It is mostly derived from licenses, although of late the manufacture of tobacco and liquors, long unknown here, is beginning to assume some importance.

As superintendent of Indian affairs, Brigham met with admirable results from the advancement of his own ideas. He met and treated the Indians as brethren, keeping his promises and treaties with them, preferring liberal concessions for maintaining peace to raids and bloody butcheries for the quicker development of settlements. Troubles could not be altogether avoided, owing particularly to the reckless acts of gold-seeking gentiles. Again, effective use was made of the militia, which included all males be-

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tween 18 and 45 years of age, so that Utah remained comparatively secure, notwithstanding the turmoils in adjoining sections.

The Mormons evidently did best when least interfered with; and as those practices which were obnoxious to others, though so dear to themselves, could not prove infectious, it would have been better to have left them more alone, trusting to the development of other territories, to the intermingling with gentiles, to education among the rising generation, and to wise and temperate measures for the abolition of polygamy and other evils. Former misunderstandings should have taught the federal authorities the advisability at least of diplomatic treatment, the more so as the Mormons had assisted with a battalion to conquer the country, and had occupied it before its cession by Mexico. Instead of this the offices were assigned without regard to fitness to men, who, forgetful, as a rule, of sense and duty, assumed arrogantly and needlessly to meddle with popular and religious customs, therein displaying a spirit of savage fanaticism, and systematic persecution under cover of federal laws. The result for a long time was to rouse ill feeling and opposition, leading to frequent change of officials, some departing in fear of their lives. As part of their policy, the government found it advisable in 1857 to replace Brigham Young by another governor, in the person of Alfred Cumming, assisted by new judges, and to sustain them with a force of soldiers.

Brigham believed that a show of resistance, notably by means of guerilla warfare, might call attention to the injustice or harshness of these proceedings, and evoke sympathy from the people at large against armed interference. In any case remoteness and the number of his devoted followers, and the ready alliance of Indians, might enforce concessions. His surmises were correct. The harassing manœuvres of the Mormons proved so effective, especially upon

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sources of supply, as to reduce the troops to narrow straits, and to bring both ridicule and denunciation upon Buchanan, president of the United States. Negotiations were opened, with an offer of amnesty on one side, and acceptance on the other, of the troops in quiet occupation of certain points. Brigham was made to see that the refusal of these concessions would justify and oblige the cabinet to take more effective steps, against which it would be futile to struggle. The popular prejudice against this sect, only slightly softened by recent sympathy, had been embittered by the Mountain Meadows massacre of 1857, ascribed to Indians, but charged by the enemies of the saints directly upon them. Their interests were, moreover, touched by the prospect of supplying the troops, and they certainly obtained a large share of the $15,000,000 which the expedition cost before its withdrawal in 1861.

Cumming acted with such discretion as to greatly soften the chagrin of the Mormons over the removal of Brigham, and reconcile the people to the change. Among other concessions came a more liberal apportionment of federal funds for public works. Brigham, nevertheless, remained *de facto* ruler, as head of the church, upon which political affairs, like others, were dependent. The unit-vote system had been formally adopted in Utah by an act of 1853, and registration in voting. Federal officials were made to feel the effects of it, and the less accommodating successors of Cumming hesitated not to exhibit their annoyance. President Lincoln's policy was to leave them alone, yet Governor Hardy and his judicial companions openly condemned polygamy, and attempted to control militia appointments, and restrict the probate courts. The consequent outburst of popular indignation led to a fresh expedition of troops, a step prompted, moreover, by the not over loyal sentiments of the local press, although the Mormons remained true to the union.

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After the war the authorities at Washington entered upon a crusade against polygamy, and many schemes were proposed, such as to merge Utah into the adjoining territories; to grant it statehood, and let party spirit spread reform; for a commission to assume control of affairs in federal interest; to prohibit polygamy and enforce marriage, with registration, as a civil compact, giving the wife right to dowry, and also the right to testify against the husband in courts of law. Some of these plans passed early into operation. The creation of the states or territories of Nevada, Idaho, Wyoming, and Colorado reduced the area of Utah, and brought large numbers of Mormons under outside control. Schisms arose within, striking at ecclesiastical supremacy, and sowing discord. Polygamy being the only tangible defect which afforded a handle for wide interference by the government, this was made the excuse for political and religious persecution. The opposers of Mormonism care very little for polygamy; it is notorious that among the governors and other gentile office-holders in Utah who were loudest in their denunciation of what they called the immorality of the Mormons, were the most immoral of men themselves, lewd, drunken, dishonest, many times worse than anything the Mormons were ever truthfully accused of. The true cause of the intense bitterness toward the Mormons has been from the first the peculiar power their religious and political coöperation gives them.

Governor J. Wilson Schaffer, in 1870, took the preliminary precaution to forbid the usual mustering of the militia, by this time 13,000 strong, and this was forcibly affirmed by the pugnacious George L. Woods, an Oregon politician from Missouri, of anti-Mormon origin, who in 1871 succeeded the mild and conservative V. H. Vaughan. He thereupon sought to revive the defective polygamy law of 1862, and ventured to arrest Brigham Young himself, together with other leaders, for lascivious cohabitation. But

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nothing could be accomplished, and the effort to reduce the power of the churchmen made little advance. The government accordingly relaxed its efforts once more, and Woods' successors, S. B. Axtell of California, and G. B. Emery of Tennessee, observed an attitude so neutral as to bring upon them round abuse from the gentile press.

During this respite occurred the death of Brigham Young, on August 29, 1877, in his seventy-seventh year. It was a loss felt far beyond the limits of Utah, exciting, indeed, more attention throughout the world than that of many another monarch. The Mormons mourned for him as a friend and benefactor no less than as prophet and chief. For over three decades he had been their guide and leader, the brain, the eye, the mouthpiece of his people, rescuing them from persecution and poverty, and associated with every detail and phase of their spiritual and material welfare. He was the prime mover in the industrial development which transformed a wilderness into a garden; he caused to be built a series of flourishing cities; he established trade and manufactures, and made his colony the envy of older communities, and a model for new ones. In such a man faults are hidden by the radiance of results. He stands forward as one of the band of world-leaders, fitted to impress the stamp of nationality upon a people, whose practical genius has engraved itself in history as the founder of a state, as a beneficent enthusiast, and able ruler.

With his death absolute power was expected to feel the shock, but the leaders hastened to signify their unanimity and contentment with the existing order of things by upholding the senior apostle, John Taylor, as acting chief, and confirming him formally as president three years later, with George Q. Cannon and Joseph F. Smith as councillors.

Taylor and Cannon were natives of England; Smith was born in Missouri. These, with Wilford Woodruff, Willard Richards, Franklin D. Richards,

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Heber C. Kimball, Orson Pratt, Erastus Snow, and others, were long pillars of the church.

The federal authorities warmed, later, to renewed onslaught, and issued, in 1882, the Edmunds law, punishing illicit cohabitation, and excluding from vote and office all polygamists. Its enforcement was intrusted to a commission of five, assisted by chosen officials, and by juries weeded of Mormon sympathizers. It was objected that the law violated the constitution, by subordinating the majority to a hostile minority; by employing packed or one-sided juries, a composition the more glaring as the gentile portion of the community, forming less than one fourth of the total, excelled it on the criminal calendar; in being an ex post facto law, which misinterpreted judicial functions, and transferred them to the legislature and executive.

On the other hand it was claimed that the Mormons thus placed at a disadvantage were offenders, banded to break the law and defy republican principles.

The history of Nevada revolves round the Comstock lode, which, with its sisterhood of precious ledges in various counties, has elevated the region on a desolate transit route to a state. Unlike the other mineral states to the west and east, she still remains preëminently a mining field, with as yet small recourse to the more stable developments.

The first glimpse of Nevada by Europeans may have been obtained by the detachment from Coronado's expedition, which in 1540, under Tobar, sought to explore the Colorado. After the occupation of New Mexico, late in that century, excursions may have been undertaken in this direction; but the first recorded entry into the country was that of Father

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Francisco Garcés, who in 1775 set out from Sonora with Anza's California party to establish missions on the lower Colorado. He travelled over a wide section of this region, and prepared a map containing the names of small tribes and streams in southern Nevada. In the following year the friars Dominguez and Escalante made a circuitous trip from New Mexico, which skirted Nevada's eastern line.

Such explorations lent affirmation to the Spanish title to the vast interior, long claimed by virtue of Spanish navigators having taken formal possession along the coasts of either ocean, and of actual settlements as far as Florida on one side, and San Francisco bay on the other. Geographers continued for over two centuries to mark this western slope by the mythic name of Quivira, and as late as the third decade of the present century maps were issued, containing a number of distorted lakes and rivers above Colorado.

The first men who actually penetrated into Utah and Nevada and lifted the veil of ages were the trappers, who, after two decades passed in the surrounding regions to the eastward, reached the latter region. In 1825 Peter Skeen Ogden entered with a band of Canadians and Scotchmen from the Hudson's Bay company's domain, and set his traps on Humboldt river, known for a time by his name, Ogden, and again by that of his Shoshone wife, Mary. About the same time Bridger approached from Utah with a number of American followers, and celebrated with a carousal the meeting between the fur magnates of the north and east in this new field. In the following year the parties of W. H. Ashley and Jedediah S. Smith followed on their heels, the latter passing on to California and on his return making the first entire transit of Nevada, from west to east, in a direction opposite to the march of empire. Wolfskill, Nidever, and Walker of Bonneville's band, were among the hunters of succeeding years.

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So far the Shoshones had been intimidated by the number and the fire-arms of the intruders, complemented by friendly gifts and barter, or by such stale devices as that of Ogden, who made believe to marry one of their maidens as the cheapest manner in which to bind the tribe, while securing for himself a wife and drudge, to be cast off at his departure. Joe Walker, later famed as guide, found them less compliant in 1832, perhaps on account of shabby treatment by predecessors. They stole traps and attempted several raids. One day 400 of the Indians attacked them, and were routed by the murderous arms of the white men. After this the enraged trappers, deluded in their expectations of obtaining furs, vented their spite in a series of outrages on unoffending bands along their route to California, for which succeeding emigrants had to pay dearly.

In the path opened by the trappers, began to tread, in 1839, parties of restless western men in search of new homes. Among them figure Bartleson, who in 1841 brought the first wagon to Nevada; and Chiles, who two years later took the first wagon through the country. Official information regarding the transit routes were furnished by J. C. Frémont, the so-called pathfinder, who in 1843–6 crossed and recrossed the region, assisted by guides like Joe Walker and Kit Carson, whose names are preserved in lakes, rivers, and passes. The latter was a Kentuckian, who in 1828, at the age of 19, began his career as a trapper, and after acting as guide and messenger for several important expeditions, passed to New Mexico, where he rose to prominence.

These avant-couriers did their task at an opportune moment, for the gold discovery in California transformed their trails into mighty highways, thronged with excited fortune-seekers, at times exceeding 50,000 during the season. A portion took the Santa Fé route, south of Nevada, but far the largest proportion moved from Great Salt lake along Humboldt

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river, crossing thence to Carson or Truckee rivers for the transit over the Sierra.

Lines of huge canvas-covered wagons crept in sinuous course, drawn by oxen and escorted by men on foot or horseback, struggling alternately with rugged passes and sun-beaten alkali wastes, with hardships, thirst and disease, and with savages bent on spoils and revenge. As a final ordeal for the weary wanderers came the passage of the terrible sink of the Humboldt, and for many a delayed party the crossing of the snow-covered range. All along the line lay ominous signs of the mishaps of the migration in household effects, thrown from the wagons to lighten the burden of the way-worn beasts; and during the latter part of the journey could be seen abandoned vehicles and the carcasses of fallen animals.

The sufferings and wants of the emigrants had begun to appear at or before reaching Salt Lake City, where clothing, wagons, and beasts were freely exchanged, in the absence of other valuables, for provisions. Several of the thrifty saints took the hint to establish trading posts along the route, notably in Carson valley. This, the first settlement in Nevada, was founded by H. S. Beatie, a Virginian, aged twenty-three years, who, after a course at college, had become a follower of the prophet Joseph, and migrated to Utah in 1848, with his wife. After erecting a log cabin on the present site of Genoa, in the early half of 1849, he stocked it with provisions from California, and, assisted by half a dozen followers, realized a snug profit. During the same autumn he returned to Salt Lake City, his possessions falling into the hands of John Reese, who erected a more substantial post, known as Mormon station, to which a saw-mill and other industrial adjuncts were in due time added.

In 1850 there were about twenty trading posts at intervals along Carson valley, established chiefly by

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men from California, whence relief expeditions had come to meet the hapless emigrants and help them across the sink and over the mountains. These stations, together with some farms dependent on them, had by the following year a population of nearly one hundred. Of these only a score were actual settlers, their number being augmented in 1852 by the first female resident, the wife of Mott, founder of Mottsville.

Notwithstanding this paucity of numbers, a meeting was held on November 12, 1851, to appoint a governing committee of seven members. Their names were, Wm Byrnes, John Reese, E. L. Barnard, A. Woodward, H. H. Jameson, T. A. Hylton, and N. R. Haskill. Several were of bad character and met later a sad and disreputable end. One of the few worthy men was Reese, a New Yorker, who at the age of forty-one had proceeded to Utah, there to form with his brother a trading firm, of which the Carson house was a branch. Barnard, a partner, absconded with their funds in 1854, and Reese sank into poverty. This council laid down rules for holding lands, and petitioned congress for a distinct territorial government in the valley. Meanwhile Barnard was chosen magistrate, Byrnes sheriff, and Hylton clerk. Appeal was to be made to a court of twelve men, summoned as would be a jury.

This action was regarded as a reproof for neglect by the people of Utah who in 1849 had organized the state of Deseret, claiming all the territory east of California, between Oregon and Mexico, for some distance beyond the Rocky mountains. In 1852 the legislature of Utah formed seven counties, stretching between parallel lines from east to west, through Utah and Nevada. Judges were appointed to whom Carson settlers could appeal, a mail route was opened to California, and preparation made for stages. The people of Carson valley, as the way station, assisted the enterprise by constructing roads and bridges, and

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the number of settlers began to increase, attracted partly by fairly yielding placers.

The provisions made by Utah were too meagre to satisfy the people. In 1853 they renewed their appeal to congress, asking this time to be annexed to the nearer and more cognate state of California for judicial purposes. The Mormons hastened to counteract the petition by creating Carson, in January 1854, into a separate county, embracing all the region between the Sierra and 18th meridian, from the present southern line of Humboldt county to about latitude 38°. George P. Stiles was appointed United States judge over this the third judicial district of the territory, Orson Hyde being made probate judge. They arrived in June, and arranged for an election, at which James C. Fair was chosen sheriff, together with a number of other county officers.

Stiles soon left the place, when again rose the spirit of independence, displayed in the draughting of a territorial constitution, and later, in 1856, by a demand for annexation to California. Somewhat alarmed for their territory, the Mormons dispatched thither a colony of three-score families, and with this majority assumed the management of affairs. They founded Genoa at Mormon station, Franktown, and Dayton; they opened irrigation ditches, erected saw-mills and other industrial adjuncts; gave attention to schools, and sought to form society on the Utah plan, with rigid simplicity and restrained indulgences.

This by no means objectionable transformation received a check by reason of the attitude of the federal government toward Utah, marked by the entry of an army into that territority. The Carson Mormons were ordered back for the defence of Zion. Most of them obeyed; and so collapsed, to a great extent, the budding social and material improvements. The county court adjourned, and did not meet again for three years, and the county was attached to that of

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Great Salt lake, although a few officers remained to retain a semblance to the organization.

The gentiles gained possession of the property of the departing saints at a great sacrifice, and having, therefore, more reason than ever to be freed from Mormon control, they renewed in 1857 their former efforts for separation. James M. Crane, a printer from Virginia, founder of the first whig journal in California, was dispatched to Washington to advocate the measure, and to remain as delegate when a territory should be organized. The adjustment of the Utah difficulty restored the Salt Lake City influence. Carson county was reorganized, with J. S. Childs as probate judge, and an election was held, at which the so-called Mormon party carried the day, H. B. Clemens being chosen representative and L. Abernethy sheriff. Paying little attention to these proceedings, the anti-Mormon clique urged Crane to continue his work at the capital, and held an election in 1859 for adopting a constitution, modelled after that of California, and for choosing officers to sustain it, Isaac Roop being declared governor, and A. S. Dorsey secretary of state. Roop's election was affirmed in 1860, J. J. Musser succeeding Crane on his decease in the latter year. Roop's administration passed little beyond the delivery of a speech before the legislature at Genoa. As the attendance was insufficient for a quorum, the body adjourned without action.

The cause of this abortive attempt at legislation, and the sudden indifference of the people, lay in the discovery of the Comstock lode, which absorbed all attention, and finally secured the vainly-sought concession from congress. Miners rushed in from California and elsewhere, all intent on sharing in its treasures. It was a repetition on a smaller scale of the events of 1849 of California, with its attendant speculation and extravagance, its mixture of races and classes, its transformations and abnormities. The

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community embraced the usual admixture of the rough elements, with their train of loose women, gambling dens, and outrages; but they found a check in the self-reliant class of sturdy diggers, who, trained in California, took early steps to proclaim at informal meetings a series of wholesome laws, guarded by the spirit of vigilance.

Camps sprang up in different directions, centering foremost in the town now rising at the main point of discovery under the name of Virginia city, at first a collection of tents, but rapidly filled with stone and brick edifices as the ledges beneath her gave token of permanency. Officially she gained the dignity of county seat only, and but few public buildings graced the leading town of Nevada. Her costliest public work was the conveyance of water from beyond the Washoe valley, at a cost of $2,000,000.

For several years flowed the current of prosperity undisturbed, marked by the advance in the price of mines to more than $6,000 per lineal foot. Finding that some deposits were becoming exhausted, the leading stockholders sought to realize. The result was a panic, followed by the departure of many residents, and a decline in business, notably on the Comstock. Meanwhile a number of other promising districts had been disclosed, such as Reese river, Tuscarora, and Eureka, which tended to sustain the production of precious metals at a high figure.

In 1869 came a glittering revival of the mining industry, in the discovery and development of the White Pine district, with deposits of chloride far surpassing in richness any so far revealed in the state. A rush of miners set in, sufficient to create several large towns, but the deposit was shallow and the collapse came quickly. In 1872 broke out another excitement, caused by the discovery of the Crown Point and Belcher ledges, on the Comstock, and those at Pioche. Nevada stocks advanced in value in the San Francisco market from $10,000,000 to $80,000,000

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within five months. Again came a fall of $60,000,000 within ten days. Then came to the relief the Virginia Consolidated and California mines, with the largest of Comstock bonanzas, yielding over $100,000,000 within five years. The excitement rose for a time to fever heat, and shares rated a year or two before at less than a dollar reached $800, only to fall soon afterward at a tremendous pace, carrying with them a host of other mines, and ruining thousands. This disaster was preceded by the almost entire destruction by fire of Virginia City, which, however, rose quickly from her ashes.

Every excitement or depression implied to Nevada a corresponding influx of population, with increase of capital for sustaining settlements and industries, or an exodus and dispersion, leaving behind it deserted towns and abandoned industries. The vagaries of fortune affected almost everything, and the frequent fluctuations showed that the unearthing of precious metals was at best a gamble.

The result of the first excitement was to render California more ready to support the cause of Nevada in the way of her erection into territory, and several bills were presented before congress. That of Green from Missouri was the one finally passed, March 2, 1861, and this occurring on the eve of the great civil war, Battle-born became a favorite soubriquet for the sage-brush state. The name Nevada, contained in the earlier petitions to congress, was appropriately retained in preference to a number of other suggestions, for this plateau region is a part of the Sierra Nevada.

The first formal governor was James W. Nye, a lawyer, born in Massachusetts in 1815, whose reputation as a political orator in supporting free-soil and anti-slavery principles had procured for him the soubriquet of Grey Eagle, and assisted him in 1857 to the position of commissioner of police at New York, as it now did to the present office, despite his leanings

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otherwise to the democracy. With him were associated, as territorial secretary, Orion Clemens of Missouri, accompanied by his brother Samuel, since famous as the humorist, Mark Twain; George Turner, chief justice; H. M. Jones and G. M. Mott, associate justices, for whom three judicial districts were created.

At the election now held, with over five thousand votes, fully four fifths republican, J. Cradlebaugh, late judge, was chosen delegate, and a legislature formed of nine councilmen and fifteen representatives. Out of the nine electoral districts the legislature created the counties of Douglas, Ormsby, and Storey—both of the last named in honor of officers fallen in battle against Nevada Indians—Washoe, Lyon, Esmeralda, Churchill, Roop—named after the first informal governor—and Humboldt. The eastern districts had barely population enough to constitute the usual corps of officers. In course of time the rise of new mining districts led to the formation of Lander; named after F. W. Lander; Nye, after the first formal governor; Lincoln, Elko, White Pine, and Eureka.

The area of Nevada, first placed at about 81,000 square miles, was enlarged to 112,090, of which 1,690 are covered with water. The boundary between California and Utah had always been in dispute, even part of Carson valley being claimed for the former. After several petitions to congress a boundary commission was appointed, but wearied by the continued delay, both California and Nevada surveyed portions of the line along the Sierra, and the former agreed, in 1863, to surrender its jurisdiction over Esmeralda county in exchange for the surrender of Lassen county, where shortly before the dispute had evoked an appeal to force. In 1866 a degree on the east was added to Nevada and the region north of Colorado river, but her request for more of Utah and Idaho territory was disregarded. In 1874 the California line was finally surveyed.

It was not desirable that the capital should be at a

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mining camp, and despite the claims of Virginia City, it was located at Carson, founded in 1858 by A. V. Z. Curry, a pioneer, and a man of remarkable enterprise, a builder, a miner, and territorial councillor. The town lay in Eagle valley, where Frank Hall and his companion had first settled five years previously. It was well situated as a business centre for Carson valley, and contained in 1860 a journal, a water company, a seminary, and a telegraph office. The first capitol was Curry's stone building. Subsequently a large appropriation was made for a finer edifice.

The legislature met October 1861, and promptly increased the number of members to thirteen councilmen and twenty-six assemblymen. Persons with negro, Indian, or Chinese blood, were deprived of equal rights with white men before the law. A law was passed to prevent noisy amusements and gambling on Sundays, and so place a check on the vicious classes, ever following in the train of miners. A tax of forty cents on every $100 of taxable property was imposed for territorial purposes, and sixty cents for county support; also a poll-tax of two dollars, which was soon doubled. The miners so far remained untaxed. A most commendable measure was the payment of Nevada's share of the war debt with a promptness which excelled all other states and territories.

The growing magnitude of the mining interests, and the rise of new districts, with consequent additions to the population, roused ambition for the dignity of statehood. Already in December 1862 an act was approved to frame a constitution and state government, which the people endorsed with a majority of five-eighths out of a total of 8,162 votes. In their eagerness to promote their own political ends, the delegates provided that the state offices should be filled by the same vote which adopted the constitution. This created dissension among the hitherto dominant union party, and the seceders joined the

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democrats for the purpose of defeating an organic law thus hampered, and containing also a clause for taxing mining property, to which miners were of course opposed.

A new constitutional convention was called in 1864, substantially resembling the former, except that it proposed only to tax the products of mines. The act was adopted by a majority of nine-elevenths in a vote of 11,393. At the same time were chosen the legislature and delegate to congress, Cradlebaugh being reëlected on the independent ticket, with the democratic candidate close behind, and far in advance of the republican. Then came the proclamation of October 31, admitting Nevada as a state, followed by new elections, whereat the general recognition of the prompt action of the federal government helped to regain the ascendency of the republicans by a majority of 3,232 in a vote of 16,420. Only two democrats obtained seats in the legislature. H. S. Blasdel became governor for two terms, and H. G. Worthington was sent to congress, and was soon succeeded by D. R. Ashley. Thither went also the two senators, W. M. Stewart, the influential Comstock lawyer, and ex-governor Nye, both being reëlected for the following term. De Long, the opponent of Stewart, in 1868, was appeased with the mission to Japan, which he filled with credit.

The gathering strength of the democratic party appears somewhat remarkable in the state, which owed its existence to an attack on the integrity of the nation, and displayed its patriotism by its prompt contribution toward the war debt, containing, as it did, for a long period, only one recognized party—the loyal one. The manifestation was rather local, and directed against monopoly and corruption among republicans; yet a number among the inflowing miners had southern and Mormon sympathies. Nevada continued highly devoted to the union, and the proof came in liberal subscriptions to the sanitary fund,

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amounting to over $170,000 during 1862–5, besides a large sum raised by the otherwise pronounced non-unionist, R. C. Gridley, with his historic sack of flour. This famous sack, originally given in payment of a wager on the election of mayor at Austin, was carried from town to town and sold and resold at auction for enormous sums for the benefit of the sanitary fund. Gridley passed an entire year in travelling with it throughout Nevada and California, realizing amid an outburst of loyal excitement the sum of $175,000.

In 1861 Nevada added a company to California's volunteer regiments, and when in 1863 an order came to raise a battalion of cavalry in the territory, six companies were formed, mustering five hundred strong, besides six companies of infantry of similar strength. They were enrolled for service on union battle-fields, but the threatening attitude of the Indians made it necessary to retain them for the defence of their own lands.

The long-nursed resentment roused among the Indians by the cruelty of trappers was early visited upon unsuspecting immigrants, whose effects, moreover, aroused their cupidity. Small parties seldom escaped without molestation, and many were annihilated without even a survivor to tell the tale. In 1857 a caravan of twenty-two immigrants had a severe contest with Pah Utes at a place named Battle Mountain, in commemoration of the event. This same tribe soon afterward offered to aid the settlers against the Washoes. The latter were propitiated, while the Pah Utes roused up other tribes to continue the warfare. Lassen, the guide, was among their victims. The white men retaliated on innocent and guilty alike, and so thoroughly castigated the natives, that during the hard winter of 1859–60 few ventured forth to accept the supplies tendered to them, lest they should be poisoned or entrapped. Others, also, held aloof, embittered at

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the loss of their kindred and of their favorite hunting grounds, such as Honey Lake valley, claimed by Winnemucca.

In the spring of 1860 the Indians gathered at Pyramid lake, and after reciting their grievances most of the chiefs declared for war, though Winnemucca, as the principal chieftain, shrewdly abstained from openly committing himself while fomenting the war feeling. Meanwhile Mogoannoga, or Captain Soo, of Humboldt meadows, hastened away with a few braves and put an end to the discussion by opening hostilities. In league with others they threw themselves upon the smaller settlements, especially in the north-west, plundering and burning in their track.

The smouldering anger of the people now burst forth in vengeful excitement. Couriers flew right and left to warn prospectors and out-lying camps; an appeal was sent to California for arms and ammunition, and companies were mustered in all the towns. The advance force of 105 men removed early in May to Truckee river, near the present Wadsworth, poorly accoutred and worse disciplined. Here they allowed themselves to be drawn into a narrow defile, where they were attacked at a disadvantage. Realizing their danger many took to flight, while the rest, recognizing the need of harmonious action, united under one leader, Major Ormsby; but too late. Elated by their success the Indians pressed eagerly upon the devoted band, pouring in their bullets and poisoned arrows, and leaving over two score of their dead bodies upon the field.

The effect of this disaster was to drive many out of the county. The remaining inhabitants, even in such towns as Carson and Virginia city, prepared for defence, erecting fortifications, and placing women and children within the strongest shelter. Californians responded promptly to the cry of distress. Volunteers marched from different points to the rescue, Downieville alone sending 165 men who reached Vir-

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ginia city on foot in five days. The government also sent troops, and contributions flowed in from all parts of the coast. Before the end of the month 800 men were in the field, including 200 regulars The mere appearance of this force sufficed to restore safety to the central districts and permit the reëstablishment of the interrupted stage and pony express lines.

The main body compelled the hostile tribes to retreat from Truckee river after an encounter in which twenty-five Indians were killed. The tribes thereupon dispersed and the volunteers disbanded, leaving pursuit to the regulars. The Pah Utes, who were the leaders of the movement, promised to remain quiet for a year, while congress should consider the compensation due for their lands. A permanent post, Fort Churchill, was constructed on Carson river to keep watch over them. Meanwhile Indian-agent Dodge set aside reservations at Walker and Pyramid lakes, and in the Truckee valley, where food supplies were abundant.

Notwithstanding all precautions, frequent raids, under the pressure of want, continued to arouse the vengeance of settlers, and early in 1862 the Owen river tribes were provoked into a formidable outbreak, which led to a campaign and the loss of many lives. Desultory engagements took place in different sections, chiefly in the north and east, and the operations in Oregon, Idaho, and Utah extended in a measure into Nevada. The occasional picking-off of a stage driver or emigrant by the long rifles of the Indians was atoned for at the first opportunity by the massacre of a band or the destruction of a village. In a battle at Fish creek, in January 1866, the volunteers defeated Captain John of the Warner lake Shoshones with a loss of 35 warriors. In the following month the same expedition claimed to have avenged renewed raids on Paradise valley with the slaughter in battle of 115 men.

This year was one of renewed activity, and the re-

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sult was a loss to the Indians of 172 killed and about the same number captured. The lesson proved effective, for the state was henceforth comparatively free from raids. In 1868 the troops in Nevada consisted of eight companies, chiefly cavalry, which garrisoned camps McDermit, Winfield Scott, Ruby, Halleck, and Fort Churchill. Four years later McDermit and Halleck were occupied by two companies. Nevada suffered on the whole less than many other states, owing partly to the less war-like character of the tribes, partly to the swift punishment inflicted. Probably not over 300 whites have been killed there, while the savages suffered in far greater proportion.

The reservation, provided by treaty of 1863 for the Shoshones of eastern Nevada, was established only in 1877, at Duck valley, Elko county. Another had been formed in 1875, in the south-eastern part of the state, on Moapa river. The more self-asserting western Pah Utes, numbering a little over 1,000, were early assigned to the reservation on Truckee and Walker rivers, covering 644,000 acres. It was surveyed and approved in 1874. The northern Pah Utes, with the Warner lake and Malheur Shoshones were sent in 1870 to a tract in eastern Oregon. During the war in that section in 1877–8, the Winnemuccas maintained a not very reassuring neutrality, and rather promoted the destruction of the Malheur agency. This was subsequently sold and the Shoshones and Pah Utes were sent to the Simcoe reservation in Washington. Here the Yakimas persecuted them to such an extent that they returned to Nevada. The Washoes were not granted a reservation, but roamed about on the outskirts of settlements, acting at times as servants, and sinking under vice and disease.

The close of the civil war was followed by the reörganization of the democrats throughout the coast, and they gradually returned to power. In 1870 they elected their candidates to most of the important

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offices in Nevada, L. R. Bradley, a prominent stock-dealer, being chosen governor, and Charles Kendall member of congress. This remarkable change, distinguished by majorities for the party as large as the republicans had been used to obtain, must be attributed greatly to an increase in the democratic vote caused by immigration.

Another power was making itself felt even more in controlling party, patriotism, and talent; to wit, money. It had been glaringly manifest in mining litigation during the sixties, when the lavish distribution of coin did not stop with lawyers and witnesses. Whether judges were bribed or not, the rich contestants took the precaution of manipulating the elections so as to obtain a judge on the bench favorable to their interests.

The same lever was conspicuously used in 1872 by two prominent aspirants for the senatorship. One was William Sharon, a native of Ohio, and of quaker descent. Like some other famous men he had once owned an interest in a flat-boat. Failing to make this profitable, he turned to law, and although no opening for practice appeared, he acquired thereby a mental training which proved useful in his more promising career of merchant, banker, and stock manipulator. Opposed to him was John Percy Jones.

The victory was expected to fall to the one who should be most lavish with his funds, and Sharon, with the bank of California at his back, was considered the strongest, although it has not been alleged that he used its funds for that purpose. Jones was a mining operator, and a pronounced bull in the stock market, and therefore a bear movement was set afoot to disable him, and charges were trumped up against him of having fired a mine, involving the loss of life as well as property, in order to profit by the consequent decline. He was a favorite with the miners, however, who called him the Nevada commoner. The machinations against him had little effect, and

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Sharon withdrew. Jones' only remaining opponent was Nye, whose generally acknowledged merit faded beside the attraction of the rich commoner's wealth, and thus the latter entered the senate in 1873.

Jones proved himself no mere figure-head. He possessed both tact and talent, as indicated by his appointment as chairman of the monetary commission of 1876, in which position he gained credit for himself as well as his state. European bondholders and eastern bankers had long been aiming to establish a gold standard, and had, indeed, prevailed on congress to ignore the silver dollar, so much so that by 1878 it had depreciated nearly twenty per cent. The monetary commission induced that body to adopt a remedial measure by ordering the coinage monthly of between two and four millions in standard dollars for circulation, and to consider the advisability of restoring silver to an equality with gold. This question was long in agitation, influenced not a little by the speeches of Jones in favor of silver, and against the interference of foreign bond-holders with American finances. His ability and attitude earned for him a reëlection in 1879.

The political career of William Sharon is related elsewhere in these chronicles. In 1874 he was elected senator for the six years' term, partly by the opponents of the Sutro tunnel; but through the pressure of his business affairs was prevented from taking his seat until 1876, and at times was absent from the sessions after 1877. Jones attended to the duties of both, sustained somewhat by congressman T. Wren, also a republican, who replaced W. Woodburn, the previous representative, C. W. Kendall, having been a democrat.

In 1878 the republicans regained the local ascendency by replacing in office the incorruptible and practical L. R. Bradley, who had held the office of governor for two terms, with J. H. Kinkead, long connected with Nevada politics, as treasurer, and in

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other positions. They also gained every office save two, while in the legislature their majority was thirteen in the senate and thirty-two in the assembly. Two years later, however, came a defeat, one of the most disastrous inflicted on the party. Of sixty-one members of the legislature only nine were republicans, leaving them a majority in the senate of only five, while in the assembly they formed an insignificant minority of seven members in all. The able journalist, R. M. Daggett, yielded his place in congress to G. W. Cassidy, reëlected for the following term, and James G. Fair, of the bonanza firm, was persuaded by the democrats to stand for United States senator. The same party elected J. W. Adams governor in 1882, but most of the other offices were gained by republicans.

A deeply agitated question for several years had been the mining tax. The extravagance of flush-time territorial government had burdened the young state with a debt of $264,000. In order to pay this, a tax was imposed of twenty-five cents on every $100 worth of taxable property, while the general state tax became $1, and the county tax $1.50, in addition to which were heavy license fees, and a levy of one dollar on every $100 worth of products from mines, instead of the proposed taxation on mining property on the same basis as other property. Not content with this discrimination in their favor, mine-owners sought to escape all imposts.

The first legislature considered it wise to pass a law which permitted the taxation of only three fourths of the products, after deducting twenty dollars per ton for assumed cost of reduction. This being declared unconstitutional, the session of 1867 reduced the tax to twenty-five cents on every $100 worth of bullion. Subsequently an abatement was allowed of from fifty to ninety per cent, according to the grade of ore. This enabled the low-grade ores of the Comstock to be worked without tax.

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These concessions had been obtained from readily influenced legislatures, chiefly through the manipulations of the bank of California, which controlled the Comstock. When the great bonanza of the Consolidated Virginia and California mines was disclosed, in which the bank had no share, it no longer sought to maintain the exemption. The people succeeded, therefore, in electing representatives pledged to enact more stringent laws for the taxation of mines, and in 1875 a tax was levied of $1.50 for every $100, or at the same rate that other property was assessed. The bonanza firm protested and refused to pay. The question became a political issue, and was inserted as a plank in the republican platform. The entire state, and especially Storey county, was pressed for funds at this time to meet expenses and debts. The bonanza firm, the parties principally interested, agreed to a compromise, with reductions of thirty-one and one half per cent on the bullion tax. The governor vetoed the measure, and the state received nearly $370,000; but the law was subsequently repealed, strictly in accordance with the will of the people.

The financial condition of the state was by no means unsatisfactory The territorial debt was gradually paid off, but fresh loans had been contracted chiefly for the insane asylum and other public buildings, amounting in 1881 to about $400,000, mostly in irreducible bonds at five per cent. After this it was resolved to cover the entire debt with the school fund, bearing interest at four per cent. The measure was advantageous to the state as well as to the fund, partly by preventing speculation in the latter.

The expense of the state government toward the end of the seventies had been nearly $450,000 a year. In 1881 a reduction of about $26,000 was effected by diminishing the number of legislators to sixty, and reducing the pay of state officers, based, as this was, on the cost of living in flush times, and, therefore, out of accord with the later conditions. Economy was

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also, prompted by the decline in real and personal property, from nearly $27,000,000 in 1873, to $21,300,000 in 1878, and the falling off in population to about 50,000, according to the tenth census.

To some the outlook appeared so gloomy that they favored the bill introduced in congress in 1882 for annexing the state to California; but the great majority among the population were self-reliant and hopeful. They pointed to the increase of property valuation to $27,000,000 in that very year, to the gain in population, and to the comparatively small burden imposed by the state upon the union, for it had received much less in appropriations than other sections, and had a clean record as to its public trusts. New mining districts are opening, fresh resources are unfolding, and the growth of adjoining territories promises further stimulus so that the prospects of Nevada are far from discouraging.

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CHAPTER XVIII.

GOVERNMENT—MID-CONTINENT.

EXPLORATION OF COLORADO—GOLD DISCOVERIES—PROVISIONAL AND TERRITORIAL GOVERNMENT—GOVERNOR GILPIN—INDIAN AFFAIRS—STATEHOOD—TEXAS UNDER SPANISH DOMINATION—REVOLUTION, WAR, AND INDEPENDENCE—UNION WITH THE UNITED STATES—MILITARY AND JUDICIAL—CIVIL WAR AND RECONSTRUCTION—PROGRESS—THE MISSISSIPPI VALLEY.

COLORADO was the most northerly of interior states to which early Spanish conquerors penetrated in their search for gold. Whether Coronado's expedition of 1540 actually reached so far in its chase after the delusive Quivira is uncertain, yet it undoubtedly approached very close to the border subsequently stained by the mingled blood of the Comanches and their prey, the Santa Fé traders. The disappointment which attended this expedition cut short all plans tending in this direction. When New Mexico was reoccupied, at the close of the sixteenth century, an advance into a region so superior as Colorado in scenic beauty and varied resources was opposed, by reason of its remoteness, by hostility on the part of the aborigines, and by the vast mountain system, which rose to block the way beyond the headwaters of the Rio Grande.

Thus was it left for over two centuries, wrapped in solitude, disturbed alone by occasional invasions at its central-southern gateway by the advancing colonists of the Santa Fé comandancia. In the middle of the eighteenth century, the government began to manifest an interest in the region northward, and several exploring expeditions appear to have entered Colorado

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in the fifties and sixties, lured partly by vague rumors of metallic wealth. One of these, under J. M. Rivera, reached in 1761 the Gunnison river. Similar northward movements took place along the coasts on both sides, marked on the Pacific by the occupation of California. With a view of opening a land route to the upper California missions, friars Dominguez and Escalante in 1776 passed through the southwest corner of Colorado into Utah. Along this line a trail was in due time formed, by which caravans occasionally travelled to Los Angeles.

By virtue of the explorations of La Salle and others, France laid a vaguely defined claim to the region north of and to some extent along and beyond the Mississippi. Spain held for a time the right to the country west of the river, but surrendered it in 1800 to France, which three years later sold it to the United States. The new owners exhibited greater interest than the former in learning something of the new acquisition into which trappers were pushing their way. Lieutenant Pike was accordingly sent to explore the river in 1805–7, but on penetrating to the headwaters of the Arkansas, he became entangled in the mountains, and stumbling on the Rio Grande settlements of the Spaniards, was detained as prisoner for a year. At Santa Fé he found several American trappers and traders, who made this their headquarters after their trips into the adjoining wildernesses. Among them were J. Pursley, who claimed to have found gold in Colorado. About the same time E. Williams led a trapping party on the great backbone of the continent, and Workman and Spencer passed through the Colorado cañon to California.

Ever intent on the westward march of empire, the United States in 1819 bargained for and obtained from Spain the cession of the country north of the Arkansas, which embraced two-thirds of Colorado. This was regarded simply as a pathway to the more coveted possessions on the Pacific shore, for which a

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deep game was now being played with England. Other expectations regarding the trans-Missouri territory were disappointed by the report of Major Long's expedition, dispatched at this time for a fresh exploration of the country. The major rashly stamped the entire region between parallels 39° and 49°, for 500 miles east of the Rocky mountains, as a waste covered with sand and stones. Forthwith appeared upon the maps the Great American desert, to raise an ominous barrier against westward occupation, and to serve as a stumbling block in the way of advocates before congress of the American claim to Oregon.

Private enterprise was destined, however, gradually to remove the stigma, and render to this region the fair name which it deserved. About the time of Long's visit, St Louis traders were opening a caravan trade with Santa Fé, which, passing through the southeast corner of Colorado, made Bent's fort an entrepôt for the many trading posts fostered by the protection and facilities extended by that traffic. M. Lisa had enjoyed a monopoly of the fur-trade during the earlier part of the century, under Spanish protection. Now American trappers poured in, yet it was not until the beginning of the thirties that the first important fort was erected within the present limits of Colorado. This was Bent's fort, founded in 1832, although a French trader from Detroit, named Maurice, appears to have established a fortified camp two years earlier on Adobe creek. After this sprang up a number of others on the tributaries of the Platte and Arkansas.

The fur region here was less prolific and was soon exhausted under the onslaughts of trappers and of Indians, drawn hither by the tempting prizes held forth by the stations. At the time of Frémont's exploring journey, in 1842–5, only a remnant of the traders remained, most of the employés having changed to colonists, living in a primitive manner with their Mexican or Indian wives and half-breed

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children, clustering as of yore round defensive structures. With declining profits the Indians had become less friendly; and accustomed by this time to certain European luxuries, they did not scruple to seek by force what they lacked means to buy. In 1844 the Utes captured Roubideau's fort, and soon after Bent's fort fell, both attended by the massacre of the men and the enslavement of the women and children. During the war in 1846 they found additional pretence for some wide-spread raids.

The Mexicans had early established farms and ranges on the upper Rio Grande, and El Pueblo on the Arkansas was a post erected for the protection of an agricultural settlement intended to supply the trading stations. The first American who settled here, presumably in the twenties, is supposed to have been James Baker. He occupied a cabin on Clear creek, four miles above Denver, and had full-grown children by his Indian wife in 1859. The gold migration frigtened him away, to end his days in the mountains of Idaho. Others among his contemporaries were enterprising men, with an eye to the future. James Bonney, for instance, founded in 1842 the town of La Junta. Several had taken the precaution to obtain large tracts from the Mexican government, one, the Vigil and St Vrain grant covering nearly all of Colorado south of the Arkansas and east of the mountains, and another, the Nolan, stretching south of Pueblo for forty by fifteen miles. The United States government recognized them, except in so far as to plan the limit at eleven square leagues.

The aspirations of these speculators were long deferred. The California gold fever directed attention away from the intra-mountain region to the glittering shores of the Pacific. Nevertheless, some benefit was derived from the migration. The widest current flowed just north of Colorado, leaving driblets of traffic for the south Platte settlers; but the smaller

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stream which followed the Santa Fé trail offered more substantial tokens to the dwellers on the Arkansas.

Here also a portion of the Mormon battalion had been quartered during the winter of 1846–7, and left the impress of their industry, and troops passed by en route for Mexico. In 1850 the United States asserted her new proprietory rights south of the Arkansas by erecting Fort Massachusetts on Ute creek, near Sangre de Cristo pass, subsequently moved a few miles southward to a healthier site, under the name of Fort Garland. It was intended partly for the protection of the Santa Fé route and partly to hold in check the marauding Utes.

One result of the California migration was a series of explorations for the transcontinental railway, which was constructed a decade later. It demonstrated that the route near the 42d parallel was the best; and thus the hopes of Colorado were once more disappointed; but the surveys tended to make better known the resources of the country and remove the aspersion cast upon it by Long.

Another effect of the gold fever was to lure prospectors into the mountains of Colorado, where rumors lingered of gold discoveries made by early trappers, and by Mexicans. Indications were indeed found in 1852, but it was not until 1858 that the first mining expedition, composed of thirty Cherokees, attended by a dozen white persons, under the leadership of G. Hicks, entered the country and opened up the placers. Their march roused the emluation of others, so that a considerable influx took place. The search for diggings produced no brilliant disclosures, but it revealed the advantages of many districts for settlements, and some of the parties resolved to seek compensation for their loss of time from later comers by founding towns, and selling them the lots. Thus rose in the south Fontaine city, above it El Paso, on the site of the present Colorado springs, and close to the site of Denver, the towns of Montana and St Charles. No

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purchasers arriving for some time, the settlers, mostly men from Lawrence city, Kansas, abandoned nearly all the locations.

Meanwhile Cherry creek had revealed several diggings, and the importance of St Charles becoming manifest, a company under the presidency of H. Allen, a surveyor from Council Bluffs, laid out a rival location on the opposite bank named Auraria, after a Georgia mining-camp. During the winter another Lawrence party arrived, jumped the site of St Charles, and laid out a town called Denver, in honor of the governor of Kansas. The first house is said to have been erected by G. W. Larimer, whose name is borne by one of the counties. A sharp competition ensued between the two places until the arrival at Denver in 1859 of two large goods trains. The superiority thus acquired in trade insured the ascendency for the latter, and Auraria sank to a mere suburb.

The gold discoveries on Cherry creek, and the beauties and resources of the country generally, were trumpeted abroad in the eastern states with the usual exaggeration, notably by means of a book, the *Pike's Peak Guide and Journal*, issued by D. C. Oakes, one of the town builders. Business depression and the political turmoil in Kansas had revived the migration mania among a large number of people, and it needed only some such impulse as this to start them in a given direction.

During the spring and summer of 1859, accordingly, a movement set in along the Arkansas, the Smoky Hill fork, and the Platte, which excelled in magnitude the land migration to the Pacific coast. Thousands of wagons lined the routes, and by April 1859 the vanguard of 1200 immigrants was encamped round Denver. The rush was premature. Only a few diggings of importance had been opened, chiefly along Clear creek, and those so limited in extent,

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compared with first impressions, as to afford room but for a small proportion of the inflowing current. Additional obstacles were presented by the ignorance of mining methods, and by the abnormal geological features. The first check to the glowing expectations of the fortune-seekers sufficed to dishearten and turn back the greater part of the 100,000 persons estimated to have started for Colorado in 1859. They were full of bitter denunciations against the publishers of various delusive accounts and against the country, and did not fail to give warning to the additional thousands en route, or preparing to follow.

The 40,000 who remained to give the country a fair trial before condemning it were rewarded for their perseverance. Placers were found in different directions, on the tributaries of both the Platte and the Arkansas, and camps sprang up in rapid succession, centering around the towns which far-seeing speculators had founded, such as Boulder and Central city in the north, Cañon city and Pueblo in the south, and about midway Colorado springs, near a site previously occupied by two paper towns. This was the gold era of Colorado, during which it developed into a territory, and laid the basis for a greater and more stable future.

During the first years no other law or government found general recognition save the regulations framed at the informal gatherings of miners, and varying somewhat in tone in the different localities. Beyond the pale of the mining districts might seemed for a time the only arbitrator, asserting itself in squatter sovereignty. Lands were taken up at pleasure, and usurped by the next comers whose fancy they pleased. Town sites changed hands in the same easy manner, occasionally with a magnanimous surrender of a small portion to the original claimants.

This confusion led in 1859 to a meeting in the Arkansas valley to consider the question of land tenure. The result was the organization of El Paso Claim

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club, which kept a record of holdings, and tendered its arbitration in case of disputes, thus foreshadowing a provisional government. In the north the town-dwellers found time between the intervals of business to agitate for a more formal government.

Kansas was at the time the scene of a desperate struggle between the advocates of free soil and slave soil, during which territorial legislatures alternated with state assemblies. It was a question under which form the people were living. If a territory, Kansas extended to the summit of the Rocky range; if a state, its western border reached not within three degrees of the great cordillera.

The citizens of Auraria took the territorial side. They called a mass meeting, which organized the entire region as one country, named Arapahoe, after one of the Indian tribes of the plains, with the seat at Auraria. A representative was chosen in the person of A. J. Smith to procure the sanction of the Kansas legislature. He was not admitted to that body; but the governor promptly responded by appointing a judge and a county commissioner, without waiting for or heeding the action of the legislature, and five counties were created, with the needful commissioners, who, however, did not assume office, the county choosing its own staff.

Another party was seized with higher aspirations, prompted by the alluring vision of political spoils. They conceived the idea of a separate government under the title of Jefferson territory, and dispatched two delegates to congress. One of these was A. Steinberger, subsequently notorious as a king of a Pacific group of islands. Congress paid no attention to them; but the politicians were not so easily abashed. They considered justly enough that nothing was jeopardized by asking too often or too much. They appealed, moreover, to the pride of the people, urging them early in the following year to call a convention for organizing a state, or at least a territorial,

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government. Delegates were chosen, mostly by acclamation. After a long adjournment the delegates gathered, being about equally divided for state and territorial government, and with other political differences. Finally the state party prevailed and drafted a constitution, only to have it rejected by the people. At a poorly attended election in October 1859, both the remaining parties, the Kansas and the territorial, elected delegates, one to congress, B. D. Williams, the other to the Kansas legislature, R. E. Sopris. Congress remained deaf, but Sopris was admitted.

Nothing daunted the provisional government clique ordered an election of officers, which was attended by only one-fourth of the former insignificant vote of 8,000. The result was the installation of R. W. Steele as governor, and an assembly of eight councilmen and twenty-four representatives. This body passed several creditable laws, created nine counties, and levied a tax of one dollar per capita. There was no objection to this attempt at administration, except when it came to collecting the tax. Then came disavowals from many quarters, some counties objecting to their proposed organization. In most districts the miners' court alone ruled; in a few, loyalty to Kansas prevailed; and others ignored all proceedings, wishing still to send petitions to an obdurate congress. Order was otherwise observed, save among the criminal class, but their attempt to profit by the disorganization and escape the clutches of the law was generally foiled by impromptu popular tribunals, whose operations at Denver against thieves as well as squatters, gave warning to evil-doers throughout the country.

One cause for the failure of the provisional government lay in the conflicting claims of five different territories to the Pike's Peak region, for the borders of Utah, Nebraska, New Mexico, and Dakota, all inter-

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mingled here with those of Kansas, and appeals to their jurisdiction might have been made at any time by miners. Among other reasons must be counted the instability and indifference of the population, and its evasion of taxes.

The legislature held a second session, utterly unnoticed, and would no doubt have faded away of its own accord, had not congress in 1861 supplanted it with a formal government. The retiring members deserved well of their country, notwithstanding their equivocal position, and many afterward found recognition in popular approval, among them Governor Steele, in whom enterprise, honesty, and practical ability were admirably combined. He was a good specimen of a self-made American. Tall, angular, and somewhat ungainly in appearance, but with a shrewdness and rugged energy of character. Born in Ohio in 1820, he started westward in his twenty-sixth year, and began the study of law with an eye to political preferment. This he achieved, first as member of legislature from Omaha in 1858–9. Shortly afterward he removed to Colorado, as president of the Consolidated Ditch company. After his gubernatorial experience he engaged in prospecting, and was one of the party who discovered the first paying silver deposit, known as the Belmont and Johnson, which was afterward sold for $100,000.

The territorial act was passed on the 28th of January, 1861. Jefferson, Arcadia, and other suggested appellations were replaced by Colorado, after the river which here forms so conspicuous a feature. The boundaries were parallels 37° and 41°, and meridians 25° and 32°. The territorial officers commissioned by the president were William Gilpin, governor; L. Ledyard Weld, secretary, both honored by having counties named after them; B. F. Hall, chief justice; S. N. Pettis and Col Armor, associate justices; C. Townsend, marshal; J. E. Dalliba, attorney-general; and F. M. Case, surveyor-general

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William Gilpin was a man of mark, five feet eleven in height, slight in frame and nervous in temperament, with a fine head and expressive eyes. With a military bearing, a graceful mien, and courteous manner, he resembles strongly the soldiers and statesmen of continental times, though with a nature more strongly imbued with enthusiasm. Born on the battle-ground of Brandywine, in 1822, he seemed to have imbibed the spirit of that famous field, where at his father's house Lafayette made his headquarters. A graduate of West Point, he fought in the Seminole war, accompanied Frémont's expedition to Oregon in 1843, joined in the Mexican war as major of the first regiment of Missouri cavalry, and a few years later led a force against the marauding Indians of the plains, for the benefit also of the state which he afterward adopted.

The territory had been created on the eve of the civil war, and the cabinet was too deeply engrossed to attend to minor affairs. Gilpin was left without instructions, and told verbally to follow his judgment; to preserve the territory for the union, if need be by forces called out by himself, and to deport himself as a loyal soldier.

The country lay close to Texas and to Kansas, and so large a proportion of southerners had crept in that the population was estimated to be about equally divided in political sympathies. The republicans deemed it prudent, therefore, to be cautious, and seek to win the loyal democrats by adopting a liberal platform. The press on both sides was guarded. This conciliatory policy was most sensible; at the elections the republicans carried their candidate for congress, Hiram P. Bennett, by a majority of 3,800 in a total vote of 9,600. Bennett was a Missouri lawyer, lately from the Nebraska legislature, who had distinguished himself at Denver for his zealous prosecution of criminals. After serving with ability in congress for two terms, he resumed his law practice, acting for awhile as postmaster.

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The republicans had also obtained the ascendancy in the legislature, and proceeded to court the favor of the people by adopting desirable measures, seeking at the same time to strengthen their side by increasing the number of councilmen from nine to thirteen, and of assemblymen from thirteen to twenty-six. They recognized the legality of the miners' courts, provided for the transfer of cases to regular tribunals, and adopted the well expounded practice code of Illinois. A very small tax was imposed, so much so that the appropriation for expenses for the year ending June 1862 amounted to only $32,000.

Seventeen counties were created. Costilla, Conejos, at first called Guadalupe, Huérfano, Pueblo, all names politically applied in deference to Mexican priority of occupation; Frémont, El Paso, Douglas, Arapahoe, Weld, named after the territorial secretary, with the seat at St Vrain, commemorative of the once prominent fur-trader; Larimer, in honor of G. W. Larimer; Boulder, Jefferson, in preservation of the provisional territorial period; Clear Creek, Gilpin, after the governor; Park, Lake, and Summit.

The capital was first located at Colorado City, of central El Paso county, but it was found inconvenient and remote from the main body of the population and business. In 1862, therefore, a transfer was made to Golden City, but six years later Denver, so long opposed by the smaller towns, succeeded in regaining the position she had held during the provisional period. As late as 1872 the south almost succeeded in regaining the prize, but afterward Denver's rapid growth left it in undisputed possession. A rival of hers for metropolitan honors was for a time Cañon City, but the latter was left isolated by the construction of the transcontinental railway toward the Denver side.

This city secured the mint, and then strove to become the railway centre for the territory, in which she succeeded, although not without strong and costly

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efforts. The first street railway was completed in 1872. Among her prominent buildings were the city hall, costing $190,000; the court-house, $300,000; the opera house, $700,000; and the Union railway station, $450,000. The streets were adorned with 300,000 shade trees, and numberless irrigating ditches, cooling and beautifying her area of 13 square miles. The population in 1890 was estimated at 125,000, and sustained in proportion a very large number of journals and public schools.

The governor, on his side, took more radical steps to assure federal ascendency, being threatened, as he was informed, by secret conspiracies among cliques of confederates, who were in despair at the success of the republicans. He proceeded quietly to raise several infantry companies, and, this accomplished without creating comment, made a call for other companies to complete and equip a regiment, paying Denver merchants for supplies with drafts on the federal treasury. For this he had no authority, save the hasty word of the officials at Washington. Yet it was a fortunate provision, for it was now discovered that a disloyal faction had been preparing to raid the business houses of Denver, and escape with the booty to Texas. The leader, McKee, a Texan ranger, was arrested, with about forty of his followers. The remainder of his party, encamped on Cherry creek, were pursued, but about three score of them escaped, after having captured a government train near Fort Wise. The prisoners were fed and guarded for a long time, at great inconvenience.

The local danger averted, the regiment fell into disfavor, partly from its large proportion of turbulent fellows, and from the standing menace it presented to democratic partisans. It was ordered southward during the winter of 1861–2, and in the following spring was permitted to enter active service, under Colonel J. S. Slough, to check the advance of Texans into New Mexico. Here it participated in several impor-

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tant engagements, under Major J. M. Chivington, successor to Slough, a methodist missionary from Ohio, who, after several years of clerical labors in the frontier states, yielded to an innate thirst for military achievement, and deserted his cloth on the plea of loyalty. His commanding presence, kind manners, and fearless bravery made him a general favorite. The regiment was soon afterward converted into a cavalry force, and sent to guard its own territory.

The second Colorado regiment was raised in 1862 from the nucleus of two companies raised the preceding year in the southern counties. After participating under Colonel J. H. Leavenworth in the New Mexican campaign of 1862, it was stationed in western Kansas to protect the Santa Fé route. It absorbed the Third Colorado volunteer infantry, organized in 1862, was converted into the Second Colorado volunteer cavalry, under Colonel Ford, and was ordered to Missouri chiefly to fight guerillas and to aid in breaking up Price's army. In 1865 it was mustered out.

Other forces were raised in the mining districts to pursue the bands which occasionally, under the mask of sympathy with the confederates, undertook to commit depredations. One was a party of Mexicans, appropriately called the bloody Espinosas, from the numerous murders committed. In the spring of 1864 J. Reynolds, a pioneer of South park, turned guerilla and invaded the territory with a handful of confederate deserters, capturing a supply train and robbing mail and stage coaches. A body of miners from Summit county broke up the band, most of the members being shot in attempting to escape.

The fears of the inhabitants were roused less by confederate movements than by the attitude of the Indians. The tribes swarmed here in all directions, and had too often demonstrated their warlike disposition by attacks on caravans, trappers and miners, being

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treated with the same disregard that fell to the lot of the Shoshones and other abject races. Consideration for the California migration prompted the government in 1851 to conclude a treaty with the Ogalalahs, Brulé Sioux, Arapahoes, and Cheyennes, who roamed along the east slope of the Rocky mountains, between the Arkansas and the Platte. Although numbering less than 6,000, one third classed as warriors, they were assigned a tract of 120,000 square miles, together with liberal annuities as a bribe to abstain from molesting travellers.

A similar treaty was arranged in 1853 with the Kiowas, Apaches, and Comanches, who occupied the region south of the Arkansas. West of the great range lived the Utes, branches of which nation extended as far as the Sierra Nevada. In Colorado they formed three divisions, estimated at 10,000 souls, two of which, in the southern part, were yearly propitiated with offerings at the New Mexico agency. The northern division was still wild and shy, though warlike.

Most of these tribes were under the supervision of the Platte agency; but it was not easy to control twenty thousand savages, at enmity with each other as some of them were, and with only distant and small bodies of troops to offer a feeble menace against their outrages, while open plains and sheltering recesses in the ranges gave the promise of impunity. The occasional chastisement inflicted by the soldiers was speedily forgotten in the prospect of spoils and of warlike achievements, while the recollection of the chastisement itself served as an incentive to retaliations on defenceless settlers and on careless travellers —retaliations written in letters of blood, in return for the unrecorded outrages of white men upon Indians. Thus treaties were broken at the first favorable opportunity, and troops were kept busy in usually futile pursuit, the offending tribes being rarely punished with more than an occasional abatement from their

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annuities. The influx of miners after 1858 required a new arrangement with the Cheyennes and Arapahoes, by which another slice was taken from their territory. A portion of the tribe absented themselves in order to have a pretext for declaring the treaty void.

The preoccupation of the government by the civil war was seized upon by different tribes for casting off the irksome restraint. The uprising was especially formidable along the routes through Kansas, and thither were ordered in 1863 two of the Colorado regiments, just returned from New Mexico. The third remained as the sole guardians of the Colorado. This defenceless condition encouraged the Sioux and Indians of the plains to conspire for the expulsion of the white population. They opened hostilities in 1864 with a series of raids on outlying north-east settlements, and the cutting-off of supply trains from the east. Only one station was left standing on the overland route for a distance of 120 miles. Farms were deserted throughout entire districts, and the people fled into the larger towns for protection. A severe winter and floods added to the misery. The governor was compelled to raise a regiment of volunteers for a hundred days, on federal account, and to order the scantily armed militia to organize as home guards. Outrages and raids now alternated with pursuits and skirmishes, and occasional vain parleying resorted to by certain tribes to gain time or information, or for extorting gifts. On one occasion Colonel Chivington attacked a peaceful camp without warning, and slaughtered over 130 persons, an act for which the government offered indemnity, although not until other bands had amply revenged themselves. The act was both strongly commended and condemned by different parties and from different standpoints. The conclusion of the civil war gave the government ample forces with which to swoop down upon the tribes. A peace party interposed, and awed by the formidable prepara-

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tions against them, the hostiles agreed to terms. The southern Cheyennes and Arapahoes, the Kiowas and Comanches, accepted a reservation in Indian territory, and have there remained, in consideration of an annuity of $112,000, or $40 per capita, for forty years. Apaches yielded to similar proposals. North-eastern Colorado suffered only one more uprising, in 1866–8, when the first-named tribes joined the Sioux in a campaign, which was concluded two years afterward on the plains, peace being then practically assured by the railway and telegraph lines.

The Utes had at first held aloof from molesting the white men who so severely chastised their hereditary foes, the Cheyennes and associates. Of the three Colorado tribes the most powerful were the White River Utes, in the north-west, under the chief Nevava. South of them were the Uncompahgre Utes, led by the chief Ouray, and below them Ignacia held sway over the southern Utes. Cognate tribes dwelt in New Mexico and Utah.

In 1863 these tribes showed symptoms of the then fermenting Indian war eastward, and agents were appointed to pacify them. In 1868 all the region west of meridian 107° was assigned in reservation, together with an annuity of $60,000 in food, clothing, and other useful articles, until the tribes should become self-supporting. The mistake was made of appointing the friendlier Ouray to the position of head chief, to the subordination of other chieftains, who accordingly were induced to conspire. In 1878 their jealousy culminated in a massacre of the agency staff, and in an attack upon the company of troops stationed here under Major Thornburg, who fell with thirteen of his men. Reënforcements came to stay further atrocities. The Utes were obliged to surrender their vast reservation and accept land in severalty, the southern Utes on La Plata river and in New Mexico, the Uncompahgres on Grand river near the mouth of Gunnison, and the White River Utes on the

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Uintah reservation in Utah. The severalty bill granted 160 acres of farming land and as much of pasture to each head of a family, and 80 acres to each child. An annuity and means for support were to be given until they could sustain themselves, $350,000 being appropriated to establish and improve their farms Notwithstanding the liberality of these concessions they have lately given fresh trouble.

Governor Gilpin's hasty enrollment of troops for service against the confederates as well as the Indians was duly appreciated when the emergency became evident; but as the government at first objected to accept the heavy drafts and debts incurred for the pay, armament, and supplies, amounting to more than $400,000, financial distress ensued, which raised an outcry for his removal. In 1862 accordingly he was replaced by John Evans, a physician of Ohio quaker descent, who had acquired a prominent position at Chicago, and whose name was bestowed upon the Illinois university town in recognition of his aid.

The opportunity presented by the war and the example of Nevada stimulated the old state party to renewed efforts in behalf of their cause, by which several ambitious men hoped to gain place and power. The people were not disposed, however, to fill a treasury for such empty purposes and rejected the project. Nevertheless, a convention was called in 1865, in which only eleven counties were represented, and the submitted constitution, excluding negroes and mulattoes from citizenship, was adopted, although unsanctioned by law. Gilpin, whose policy was vindicated, was chosen governor, and Evans and J. B. Chaffee were sent as senators to Washington, to urge admission as a state. Congress strangely enough consented; but the president vetoed the bill, and again in 1867–8, when one vote alone prevented it from being passed over the veto. Insufficient population and irregular proceedings were the causes assigned for the

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rejection, although some alleged that it was due to President Johnson's fear of adding to the congressional strength the three congressional votes of a new state to be used against him at the impeachment. We may be sure that in our model political system the act is first for the individual, and after that for the government. The people had just cause for indifference in the decadence of mining, which was then in the experimental chrysalis state, from which the silver era was about to emerge.

The territorial régime continued for another decade, and the president's appointee for governor in 1865, A. Cummings, founder of the *New York World*, found accordingly a wide prejudice awaiting him, which he failed to overcome for want of the tact to inspire confidence. A year and a half later he was replaced by A. C. Hunt, an active railway promoter, who seemed to understand the requirements of the country, but was given little time to satisfy them, for in 1869 he was supplanted by E. M. McCook, a man of ability, but under the shadow of a charge of peculation as superintendent of Indian affairs. His successor in 1873 was S. H. Elbert, a lawyer from Ohio, who had acted as secretary under Governor Evans and lately sat in the territorial legislature. He manifested great interest in irrigation, and was preparing to rouse the federal government to action in the matter, when the reappointment of McCook, for a time unconfirmed by congress, absorbed attention by a struggle for the gubernatorial chair. The democrats availed themselves of the split in republican ranks to carry the election for the first time.

McCook's second term barely exceeded a year. The administration could not bear the rebuke of the democratic victory, and hastened to counteract it by commissioning John L. Routt, born in Kentucky in 1826, but connected in his career with Illinois, a company of whose volunteers he led during the war. After serving as marshal for the southern district of

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Illinois he held the position of second assistant postmaster-general from 1871 to 1875, when he came as governor to Colorado. He displayed his marked business capacity both for himself, in acquiring a fortune by mining operations, and for the territory, in so prosperous an administration of public affairs as to be elected state governor at the conclusion of his territorial term. The general esteem in which he was held was gained within a year, for he had come to the territory a perfect stranger.

The agitation for state honors had never been relaxed during all these years. The principal champion was Jerome B. Chaffee, the leader of the republican party in Colorado, and one of the most influential mine owners and capitalists, a man of liberal ideas and generous disposition. He was a native of Niagara county, but had from an early age carved out his own career in the western states in trade and banking. In 1860 he left Missouri for Colorado, and erected one of the first successful stamp-mills near Central City. Fortune favored him also in other mining operations, and in 1865 he purchased Clark and Company's bank at Denver, and established the First National bank, of which he held the presidency for fifteen years. His political career began in the legislature in 1861 Two years later he was chosen speaker of the house of representatives. His election as senator under the vetoed state constitution of 1866 brought him conspicuously before the people as an able leader, and he was sent to congress for two successive terms, from 1870 to 1874. Here among other important measures he obtained for territories a representation in the committee on territories, and enlarged powers for their legislatures. Finally, just prior to being unseated by a democrat, owing to the republican split, he effected the passage of the enabling act, although it was amended so as to postpone the admission of Colorado to July, 1876, on the centennial anniversary.

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The period was ripe for statehood. The constitution had by this time been improved in accord with federal amendments. It was even so liberal as to offer franchise to women, subject, however, to male assent at the election; which was withheld. The democrats also gathered for the fray, and helped to swell the votes at the election to 30 000, but secured only through a blunder a representative to congress, the entire republican ticket being otherwise elected and sustained by a majority in both houses. Chaffee was rewarded by one of the senatorships, associated with H. M. Teller, a lawyer from New York, and in Colorado since 1861, major-general of the militia and president for several years of the Colorado Central railway. He distinguished himself in the senate as chairman of reform committees, and during Arthur's presidency filled a position in the cabinet.

The state began its career under most auspicious circumstances. Silver mining was in the midst of a flourishing development, which was infusing fresh vigor into agriculture, manufactures, and trade. Real and personal property stood assessed at over $44,000,000, exclusive of mining values, and the state found itself possessed of a vast dowry in public lands.

The new authorities distinguished themselves by a most judicious dispensation of their trust. Instead of squandering the land granted for education and public buildings on favorites, as had been so often done elsewhere, they strove to obtain for them the largest possible amount. Portions were rented to the highest bidders for grazing and other purposes; others were sold in alternate sections for farming, on condition that purchasers should improve the adjoining as well as their tracts by irrigation, thus raising the price of the reserved land as high as $30 per acre, and adding millions to their value. The honor of this achievement pertains particularly to Governor Routt, and W. G. Clark, the secretary, formerly su-

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perintendent of schools, who constituted the board for selecting state lands.

The legislature on its side fixed the limit of taxation for all purposes at the low rate of twenty-three mills, and kept the floating debt at a small figure, without any funded indebtedness, the constitution prohibiting state, counties, or cities from loaning their credit. Ten years later the surplus in the treasury amounted to nearly $400,000. In 1883 the amount raised by taxation was $295,000 on an assessed valuation of $111,000,000. The internal revenue exceeded $170,000. The administration of justice was of a high order, to which contributed not a little the nomination of candidates for the supreme bench by the bar association.

The political atmosphere was less pure, owing to the free use of money, which manifested itself especially during the contest for senatorial positions. At public elections the venality was frequently resented in the defeat of otherwise most deserving candidates. The overweening assumption of capital was also counteracted by labor unions, here notably among miners. In 1881 the miners at Leadville organized a wide-spread strike, attended by an attitude so menacing as to lead to the proclaiming of martial law. No lives were lost, but the city suffered the loss of half a summer's labor and profit, and the state was taxed $20,000 for militia expenses. Shortly afterward a violent demonstration was made at Denver against the Chinese, obliging a vigilance committee to be convened for restoring order.

The successor of Routt was F. W. Pitkin, who followed worthily in his footsteps, and acquired the general reputation of a Crichton, together with the compliment of a reëlection. He came of the prominent Pitkin family of Manchester, Connecticut. After graduating at the Wesleyan university he entered in 1860 upon a lucrative law practice in Wisconsin, until in 1874 failing health brought him for

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relief to Colorado, here to resume his profession. H. A. W. Tabor, the millionaire, became the lieutenant-governor for both of Pitkin's terms, owing to the murder by hostile miners of G. B. Robinson, who had been elected for the second period.

In 1883 the democrats succeeded, by a split among the republicans, in installing their first governor, James B. Grant, a young man of ample means and ability, of liberal education and methodic, well-balanced mind. He had fought with the confederates as a boy, but received his early education in Iowa, which was later supplemented by a university course. During his administration figured, as joint senator with Teller, the able Professor N. V. Hill, to whom the state owed a debt of gratitude for experiments and efforts which brought about the revival in silver mining. He was a zealous advocate for a bi-metallic currency, and became herein the peer of senators Stewart and Jones of Nevada. This alone would have procured him reëlection from his admiring constituents, but the political weapons used by him against republican rivals were turned against himself, and two millionaires pushed themselves successively into the senate as colleagues of Teller, who was reëlected. At the conclusion of Grant's term the gubernatorial chair was filled by B. H. Eaton, a farmer's son from Ohio, who, after engaging in teaching and mining, became a large land-owner and stock-raiser near Greeley, and gained general commendation by his zeal in promoting irrigation.

The campaign of 1886 was one of the most stubbornly contested in the history of the centennial state, with three tickets in the field, and with the result that, except for the governorship, all the state offices fell to the lot of the republicans. For governor Alva Adams, a hardware merchant of Pueblo, was the chosen candidate, his competitors being William H. Myers, formerly lieutenant-governor, and W. H. Fishback of the prohibitionists.

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Notwithstanding the influence of money, and the party strife so frequently prevalent, the principal officials have been men of high character and ability, and their administration has been marked by wise and economic measures, as shown by the absence of even a floating debt, the management of the public institutions, and the admirable disposition of the landed possessions of the state. Never has the legislature of Colorado been disgraced by such unseemly fracas as those which only too often have been witnessed in the senate chambers of state and nation. Never has there been serious waste of public funds; never open disregard of constituted authority. In this and other respects her public men have set an example which older communities would do well to lay to heart.

The explorations of the early Spaniards in Texas are so enshrouded in myth as to render it impossible to separate fact from fiction; nor was serious effort made to occupy that region until the close of the seventeenth century, when Sieur de Salle made his attempt to take possession of it in the name of France. Though his colonization scheme proved a disastrous failure, it aroused the jealousy of Spaniards, and after a preliminary expedition to Espiritu Santo bay, under Alonso de Leon, governor of Coahuila, in 1689 Viceroy Galvez ordered him to establish missionary occupation in the following year. He was accompanied by Padre Damian Masanet and three Franciscan friars, Miguel Foncubierta, Francisco Casañas de Jesus María, and Antonio Bordoy, from the Santa Cruz college of Querétaro, and the mission of San Francisco de los Tejas was founded on the Trinity river. Other friars afterward joined them, but the hostility of the natives, coupled with droughts and pestilence, caused the settlement to be abandoned in 1694.

Twenty years later a French officer, Louis de St Denis, passed through Texas, and visited the presidio of San Juan Bautista, on the Rio Grande, where he

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was favorably received by the captain, Diego Ramon. He then proceeded to the city of Mexico, and through his representations as to the fertility and resources of the country, it was decided to reoccupy it. The command of the expedition was given to Captain Domingo Ramon, who took with him five Franciscans from Querétaro, under Padre Isidro Felix Espinosa, and four from Zacatecas, under the famous Antonio Margil de Jesus. The result was the founding of six missions and a presidio during 1716 and 1717 in the region between the Trinity and Red rivers, one of which was that of Guadalupe, the origin of the town of Nacogdoches.

In February 1716, Martin de Alarcon was made governor of Coahuila, his authority extending over Texas, and in 1718 he founded the presidio of San Antonio de Béjar, which afterward became the capital during Spanish rule.

Spanish domination in Texas was not yet, however, permanently established. In 1719 a French force, aided by Indian allies, invaded the country, captured San Miguel de Adaes, and compelled the abandonment of the settlements by both soldiers and friars, who retired to Béjar, which with the neighboring mission was for two years the sole possession of the Spaniards in Texas. The marqués de San Miguel de Aguayo, who succeeded Alarcon, regained possession of the conquered country without resistance in 1721, reëstablished the old missions, and in the following year founded that of San Javier de Nájera, under Padre José Gonzalez, and proceeding to the bay of Agayo, erected the presidio of Bahía, establishing under its protection the mission of Espiritu Santo de Zuñiga. His work accomplished, the governor returned to Coahuila, leaving Perez de Almazan as lieutenant-governor, and soon after resigned his commission in his favor.

Almazan ruled in Texas for four years, but though a competent man, his term of office was not marked

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by prosperity. The Apaches became very troublesome, but his hands were tied by orders from the viceroy not to engage in active warfare against them. The Indians, who had been collected around the bay mission, abandoned it, killing the captain of the presidio, and the sites of both establishments were changed in consequence. In the northeast, though the friars doubtless did their duty faithfully, little progress was made. During the rule of his successor, Melchor de Mediavilla y Ascona, a feeble effort was made to colonize the province, but only some thirty families were introduced, and the settlers accomplished nothing beyond securing a bare subsistence. In 1729 the presidio de los Téjas was suppressed, and the garrisons of the other three presidios in the northeast were reduced from an aggregate of 240 to 140 men, whereupon the Querétaro friars removed their three missions, in 1731, to sites on the San Antonio river, near the presidio of Béjar, the Zacatecan friars continuing their labors under the protection of the Piñar presidio. And thus decade after decade of the eighteenth century passed. New missions were established, only to be in turn abandoned, and in no part of Spanish America was missionary work marked by such signal failure. The Indians could not be induced to live as neophytes in regular communities, while the raids and depredations of the savages were almost incessant. The settlers who arrived in the country were without energy, and led indolent lives, preferring to hunt the buffalo and wild cattle which then abounded, to agricultural pursuits, which were conducted on a very limited scale. The condition of Texas at the close of the century was one of stagnation, and the feeble hold which the Spaniards maintained over the neglected province served to attract the attention of adventurers from the United States, and to encourage numerous hostile invasions.

At the opening of the nineteenth century the whole population of Texas, exclusive of Indians, did not

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amount to seven thousand souls, and vast regions were uninhabited, or formed only hunting-grounds for savages. There were but three settlements of any importance, San Antonio de Béjar, La Bahía del Espiritu Santo—now Goliad—and Nacogdoches. Most of the male inhabitants were addicted to the chase, to the neglect of industrial pursuits, until Antonio Cordero, who succeeded to the governorship in 1806, checked in a measure this disposition to lead a wandering life, and enforced some attention to agriculture.

On the sale of Louisiana to the United States in 1803, Texas became a bone of contention, the government at Washington unjustly claiming the Rio Grande as the Mexican boundary line. After some war-like demonstrations, an arrangement was made on the banks of the Sabine between General Wilkinson, commander of the United States troops, and the Mexican general, Herrera, that the territory lying between that river and the Arroyo Hondo should be regarded as neutral ground till the boundary question was settled by the governments. This dispute was not decided till February 1821, when the Sabine river was accepted as the boundary. But this claim of the United States was not without effect on the destiny of Texas. Serious attention had been called to the country, the majority of the people in the southern states firmly believed that Mexico had no right to Texas, and American settlers gradually crept into the disputed province, while the neutral ground was soon occupied as an asylum by a large number of desperadoes and criminals, who formed themselves into an organized community of land pirates. For years these banditti held sway over the region and preyed upon the traders between the Texan settlements and Natchitoches. Though frequently assailed and occasionally driven off, they would return and renew their evil practices, until finally they were absorbed by ex-

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peditions under various leaders who invaded Texas during the second decade.

During the Mexican war of independence Texas became the field of many a sanguinary engagement brought about by the invasions just mentioned. In 1812 Lieutenant Augustus Magee, who had lately been employed in breaking up the bands of outlaws on the neutral ground, conceived the idea of wresting Texas from Spain by aid of the banditti to whom he had just been opposed. The latter eagerly listened to his scheme, and, hastening to New Orleans for volunteers, he there met Bernardo Gutierrez de Lara, who had been sent as envoy to Washington by Hidalgo. The two readily entered into an arrangement to unite in invading Texas. Having made their preparations, Magee, who had been educated at West Point, resigned his commission in June 1812, Gutierrez went in advance and took possession of Nacogdoches without opposition, while Magee was constantly sending him reënforcements. The Americans presently advanced upon Trinidad, which was evacuated on their approach. Upon Magee's arrival in October, their forces numbered about eight hundred men.

Governor Manuel Salcedo, successor to Cordero of Coahuila, made vigorous preparations to repel the intruders. By the aid of Cordero a force of 1,500 men was soon on foot and took up a position near Bahía, against which place the Americans marched, and passing Salcedo's forces by night effected its capture. The governor now laid siege to the town, but sustained such serious losses in unsuccessful assaults that he abandoned the attempt about the end of February 1813. Pursued by the Americans, he sustained a crushing defeat at the battle of Rosillo, though reënforcements sent by Viceroy Venegas had raised his command to 2,000 men, with six pieces of artillery. His loss was nearly 1,000 men in killed and wounded. Magee had died during the siege and

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the command devolved upon Colonel Kemper, though Gutierrez had been nominally recognized as commander-in-chief, in order that the Mexican inhabitants might suppose the enterprise to be under the direction of one of their own countrymen. On April 1st the victors took quiet possession of San Antonio de Béjar, and inaugurated a provisional government under republican principles. On June 19th another Spanish force of 1,500 strong, under Colonel Ignacio Elisondo, the betrayer of Hidalgo, was signally routed by the combined troops of the now united Americans and Mexicans. But on August 18th, José Álvarez de Toledo, who had succeeded Gutierrez, at the head of an army of over 3,000 men, 850 of whom were Americans, sustained an overwhelming defeat at the hands of Colonel Arredondo, who lured him into an ambuscade. In this bloody engagement, called the battle of the Medina, nearly all the Americans perished, ninety-five only finding their way back to Natchitoches.

After this death-blow to the republican cause the condition of Texas was deplorable; the American settlers left the country and many of the Mexicans sought refuge in the United States. But none the less were invasions of a similar character made from time to time from the United States. In September 1816 José Manuel de Herrera, who had been selected as minister to the United States by Morelos, arrived at Galveston island with Luis de Aury, whom he appointed commodore of the republic of Mexico. A government was formed, Galveston declared a port of the republic, and Aury was made civil and military governor of Texas. But this crude effort at occupation soon collapsed, and in the beginning of August, Aury sailed for the Floridas. Meantime Jaen Lafitte, the "pirate of the gulf," had established himself on Galveston island during Aury's absence, and soon made himself an island king. Imitating Aury he established a republican government, the oath of

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fidelity to the Mexican republic being taken by the members. Here the pirate maintained himself for more than three years at the head of 1,000 followers, sweeping Spanish commerce from the waters of the gulf. But as he preyed upon American, as well as Spanish commerce, Lieutenant Kearney, of the *Enterprise*, was sent by the United States government to break up the freebooter's establishment, which was effected early in 1821. Lastly an expedition against Texas was organized at Natchez, by James Long, in 1819. Entering Nacogdoches he organized a government, and occupied several places in the interior, his forces amounting in the aggregate to over three hundred men. But no expedition of the kind met with more speedy collapse. Colonel Ignacio Perez, with seven hundred men, assailed and routed his detachments in detail, Long himself barely escaping capture. In 1821 he made a second attempt, and occupied Bahía with fifty men. Compelled, however, to surrender to Perez, he was sent to Mexico, where he was set at liberty, independence having then been achieved. In 1822 a sentinel, whom he struck for refusing him admittance into the barracks, shot him dead.

Thus every expedition organized with the object of seizing Texas by force of arms met with signal defeat; but the time was approaching when the influx of another race accomplished her separation from Mexico. In 1821 the condition of the province was lamentable. Most of the settlers had disappeared; farms were destroyed; cattle driven away; and vast regions were left destitute of inhabitants. The populated districts did not contain 4,000 white persons, while the north-eastern borders became an asylum for criminals, and the haunts of smugglers and robbers.

All efforts on the part of Spain to people Texas by colonization had been unsuccessful; yet she was anxious that an industrious and numerous population, whose self-interests would attach them to the soil,

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should occupy the province, hoping thereby to establish a barrier against United States encroachments. Previous to 1819 official proclamations were published inviting European emigrants to settle in her American possessions. The same privilege was not extended to Anglo-Americans who were rigidly excluded from obtaining grants of land. When, however, the treaty of 1819 secured her right to Texas, the restriction was removed. The first American to apply for a grant of land in Texas was Moses Austin, a native of Durham, Connecticut.

This enterprising and persevering man was born about the year 1764, and after having engaged in a variety of enterprises in the United States, was finally almost ruined by the failure, in 1818, of the bank of St Louis. Adversity, however, did not discourage him, and he turned his attention to the colonization of Texas. After a long and dangerous journey to San Antonio de Béjar, in 1820, with frequent disappointments and discouraging prospects, he eventually succeeded, through the interest of Felipe Henrique Neri, Baron de Bastrop, in obtaining a favorable hearing for his colonization scheme from Governor Martinez. His memorial was forwarded to Arredondo, the comandante-general of the eastern internal provinces. Austin then set forth on his return, in January 1821. His journey was a severe one. Swollen rivers and streams had to be crossed by swimming or rafting, at imminent risk of life, and exposure, hunger, and fatigue broke down his health. Having reached his home in Missouri, he died of inflammation of the lungs, having a few days before received information that his memorial had met with success, permission being given him to introduce three hundred families into Texas.

On his death-bed he left an injunction to his son, Stephen F. Austin, to carry out the enterprise, and to no one more worthy could he have bequeathed such a trust. Stephen was born November 3, 1793, and his career proves that he was his father's counterpart

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as regards the qualities of determination and perseverance. How seldom is it that the son thus supplements the life of the father? He fulfilled the conditions of the contract, introducing three hundred families within the time prescribed. Henceforward his energies were devoted to the development and prosperity of the colony. His efforts in its behalf merit the highest praise. During the changes of government which took place from the date of the grant to the installation of Iturbide as emperor of Mexico, nothing but difficulty presented itself. But Stephen Austin was not the man to be deterred by obstacles. When he discovered that, under the change of rulers the grant extended to his father had to be recognized, he did not hesitate to undertake a journey of great difficulty. Disguised in ragged clothes, with a blanket to cover himself when no house-roof offered him shelter, he travelled more than twelve hundred miles to the city of Mexico, along roads infested by banditti. After long delay and anxiety, his claim was confirmed in April, 1823. His future efforts were directed in all sincerity to promoting the prosperity of his colony. Invested with extensive and discretionary powers with regard to its government; with many turbulent men around him; embarrassed by the want of a written code of laws; surrounded with suspicious and captious settlers, who wished merely to carry out their own selfish views, it may be imagined that Stephen Austin found his position no sinecure. Notwithstanding his patience and forbearance, his prudence and moderation, dissensions arose among the colonists, and many of them turned their backs upon him, charging him even with taking advantage of their needs.

In 1824 the province of Coahuila and Texas were formed into one state, with a proviso that when the latter possessed the necessary elements to form a separate state, notice should be given to the general

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congress for further action in the matter. The union was never satisfactory to the former, her interests being generally sacrificed to those of her neighbor. After the success of Austin in establishing a colony, immigration set in with such persistence that by the end of 1832 Texas had sufficient population to entitle her to statehood; and as she had many grievances, a convention was held in the following year, at which a memorial to the supreme government was drawn up, setting forth her complaints, and petitioning for separation. Stephen F. Austin, William H. Wharton, and J. B. Miller were appointed commissioners to proceed to the city of Mexico and present it, though Austin was the only one who went to the national capital. There he met with long delay and many evasions, owing to political confusion which prevailed. Having partially succeeded, however, in his mission, he set forth on his return, but was arrested at Saltillo, on account of an intercepted letter wherein he advocated the organization of a government independent of Coahuila. After a long imprisonment he was released by Santa Anna, and returned to Texas after an absence of nearly two years and a half, in September 1835. The Texan war of independence breaking out soon afterward, Austin was appointed, against his will, commander of the army; but his career as a military leader was of the briefest. Though several engagements were fought with success, diplomacy was his real battlefield. Courageous himself, he did not wish to lead his followers to certain death, and his advance against San Antonio was marked by extreme caution. The executive council recognized his superior political abilities, and appointed him commissioner to the United States, with the object of representing the claims of Texas and appealing for aid. Here Austin, with his colleagues, Wharton and Archer, met with great success in winning sympathy for his adopted country, and during his absence Texas gained her independence.

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When the Mexican provinces declared themselves possessed of sovereign rights, and the federal system of government had been established in Mexico, a general colonization law was enacted which authorized the different states to frame similar measures for the settlement of the public domain within their respective territories, and on March 24, 1825, the legislature of the state of Coahuila and Texas decreed such a law. By its provisions large tracts of the public lands were conferred upon *empresarios*, or contractors, who must settle upon their grants at their own expense a certain number of emigrant families. This method of colonization is known as the empresario system. After the passage of this law, and in view of Austin's success, so great a tide of immigration set in, under the auspices of these contractors, that by 1830 the population, exclusive of Indians, amounted to nearly 20,000, and the resources of the country were developed in an extraordinary degree. The grants were of immense extent, and according to Austin's map of 1835, included almost the entire state of Texas. The immediate followers of Austin as colonizers were Robert Leftwich, Hayden Edwards, Green Dewitt and Martin de Leon, all of whom obtained their grants in 1825. Then follow Benjamin R. Milam, James Powers, McMullen, and McGloin, Joseph Vehlein and David G. Burnett as contractors in 1826. In the following year John Cameron obtained a grant, and Stephen Austin his second one. Others were conferred later. The above empresario engaged to introduce families in numbers ranging from 100 to 800, and though, with the exception of Austin, they failed to fulfill their contracts individually, they brought collectively a great number of settlers into the country, while numerous immigrants, having no connection with the empresarios, flocked into the new land of promise.

Foremost among these was Sam Houston, who arrived at Nacogdoches in December, 1832. His pre-

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vious career had been a checkerd one. Born in Rockbridge county, Virginia, in 1793, his widowed mother removed to Tennessee when he was fourteen years old. Disliking farm work, his wayward disposition caused him to take up his abode among the Cherokees, with whom he lived till he was eighteen years of age, spending his time in hunting and reading. Although but little educated, we next hear of him as engaged in school-teaching to pay some debts which he had contracted. In 1813 he had enlisted as a soldier during the Creek war, and greatly distinguished himself at the battle of the Horse Shoe bend, where he was severely wounded. His bravery won for him the lasting regard of General Jackson. A few years later he was appointed Indian agent, which position he soon resigned and began to study law. During the period from 1819 to 1829 he successively held the positions of district attorney for Davidson county, member of congress, and governor of Tennessee. While a member of congress he fought a duel in Kentucky which caused much excitement. In January of the last-named year Houston married a Miss White, an event which changed the whole tenor of his life. In the following April the public was astounded to hear that he had resigned his position and had secretly departed, his bride having returned to her father's house. Domestic trouble was the cause of this proceeding, but the nature of it has ever remained a mystery. Houston then rejoined his old friends the Cherokees.

On his arrival in Texas he at once became a leader in politics, was one of the members of the convention assembled at San Felipe, April 1, 1833, and chairman of the committee selected to frame a constitution. The next three years constitute the most important period in the history of Texas, and at its termination Houston had inscribed his name in the register of fame. In his opinion the time had not yet arrived for Texas to attempt separation from Mex-

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ico, and at the general convention which met at San Felipe November 3, 1835, of which he was a member, he was opposed to a formal declaration of independence. The majority at that celebrated meeting was of the same opinion, and a declaration was drawn up, in which, though war was declared against Mexico, it was announced that Texas would continue faithful to the Mexican government so long as the nation was governed by the constitution of 1824. A provisional government was organized, Henry Smith being appointed governor, and Houston commander-in-chief of the army. Dissensions arose between the governor and his council, and Houston's position becoming equivocal he was granted a furlough till March 1, 1836, and instructed to enter into a treaty with the Indians, a commission which he executed with success. On March 1st, a "convention of all the people of Texas, through their delegates elect," met at San Felipe, at which a declaration of independence was unanimously adopted, among the names of the subscribers being that of Houston, who was again elected commander-in-chief.

Events were now hastening to a climax. In February Santa Anna invaded Texas and besieged the Alamo. On the news reaching headquarters, the commander-in-chief, appointing Gonzalez as the rendezvous, hastened thither in person, but immediately received intelligence that the stronghold had fallen. As the enemy numbered thousands where he had only hundreds, he decided to retreat, and commenced a masterly strategic movement. Notwithstanding the murmuring and insubordination of his troops at this Fabian policy, he persisted with unyielding firmness, luring the foe to destruction. On April 21st, the battle of San Jacinto was fought, the Mexican army destroyed, and Santa Anna taken prisoner, Houston being severely wounded in the ankle. This victory gained for Texas her independence.

Urged by his friends, Austin on his return became,

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against his inclination, a candidate for the presidency of the new republic, but the victory over Santa Anna had gained for Houston a military renown which secured his election, and Austin was appointed secretary of state. His eventful life, however, was brought suddenly to a close. Obliged to work in an unfinished room at Columbia, the capital, he contracted a cold, terminating in pneumonia, of which he died, December 27, 1836.

Stephen Austin's constancy, equity, and fortitude, his truthfulness and simplicity of character, his zeal and devotion in all matters connected with the interests of his colony, have endeared his memory to the Texan people, who owe to him the foundation of their state. He was its parent, and for its welfare there was no peril which he would not brave, no self-denial or hardship which he would not endure. Somewhat irascible, he never allowed his hasty temper to interfere with his course of action, which was guided by intelligence and sagacity of a superior order. His benevolence and self-sacrifice for the weal of others could hardly be surpassed, and as a benefactor he holds a position in the first rank of patriots and philanthropists.

At the election in September Houston had been chosen president of the new republic by a large majority, and he was reëlected in 1841. During his second administration several of his measures met with much opposition and condemnation. In 1846, Texas having been admitted into the Union, he was sent to the United States senate, in which he represented Texas for fourteen years. He was strictly conservative and attached himself to the old democratic party, and thus his evident leaning toward the north converted many of his southern friends into enemies. When the know-nothing party appeared, he affiliated himself with it, thereby bringing upon himself a storm of abuse. In 1857 Houston announced himself an independent candidate for governor, but

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was defeated by H. R. Runnels, the democratic nominee. He was more successful in 1859, when, as independent democratic candidate, he was elected by a majority over the latter of nearly 8,000 votes. Houston's sentiments, however, were not in harmony with those of the legislature. It was a time of great excitement; the governor adhered to union principles, and when the ordinance of secession was passed by the convention in 1861, he refused to take the oath of allegiance to the confederacy, whereupon he was deposed and retired to private life. He did not, however, desert his adopted state, but sad in spirit watched the current of events, frequently raising his voice against military despotism. His health failed him rapidly, and on July 26, 1863, he died at Huntsville, Walker county.

Sam Houston was a man of commanding presence and striking countenance, a genuine index of his soul. He possessed great ability both as a soldier and statesman. Self-reliant, steadfast, and unyielding, whether in the field or senate, in private life he was courteous, kind, and generous. Frequently, however, he punished his detractors with invective that was not soon forgotten, and occasionally he displayed vindictiveness. In every official position which he held he was scrupulously honest, and at the time of his death, throughout the state which was so deeply indebted to him, few poorer men could be found. He married again a few years after settling in Texas, and left a widow and seven children, the eldest of whom had not attained majority at his death.

When the civil war came to an end, and Texas was placed under military rule, she proved more independent and determined than most of the southern states, and was one of the last to be re-admitted into the union. The all-absorbing question was whether the freedmen should be regarded as aliens or enjoy the rights of citizenship and the elective franchise, against

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which abomination Texas struggled hard. Andrew J. Hamilton was appointed provisional governor by President Johnson, and held office till August 13, 1866, when J. W. Throckmorton, who had been chosen at the general election, was duly inaugurated. Throckmorton arrived in Texas in 1841, and was a member of the secession convention, being one of seven who cast their votes against disunion. He was true to Texas, however, and when the die was cast, raised a company and fought in the confederate army. As governor he protested so energetically against military rule, and the reconstruction system generally as carried out in Texas, that on July 30, 1867, General Sheridan pronounced him "an impediment to the reconstruction" of the state, removed him, and appointed E. M. Pease as his successor. His political disabilities being afterward removed, he was elected to congress in 1874, and reëlected in 1876.

Texas having at last framed a constitution in accordance with the amendments to that of the United States, was readmitted into the union March 30, 1870. Thenceforth her statesmen set about the task of raising her from the condition into which she had fallen. The first governor elected under the new constitution was Edmund J. Davis. Being a staunch republican he had but a small majority of votes. Arriving in Texas in 1848, he held several public offices before the civil war broke out, when he entered the federal service, in which he rose to the rank of brigadier-general. Supported by the legislature, in which the majority was largely republican, his views on reform were accepted in all important points, and several measures were adopted obnoxious to the democrats, who did not close their eyes to the fact that he, as well as the members of that body owed their election to the pressure of the reconstruction laws. Party spirit was violent, and when at the expiration of his term he sought to dispute the constitutionality of the election held in December 1873, it

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was only by his vacating the executive office that bloodshed was avoided.

His successor was Richard Coke, whose election was more in accordance with the will of the majority. Coke, whose birth-place was Williamsburg, Virginia, was admitted to the bar in 1850, removing to Waco, Texas, during the same year. After serving in the confederate army, he was elected judge of the state supreme court in 1866, but was removed in 1867 by General Sheridan, as an "impediment to reconstruction."

The democrats were not in full power, and Coke recommended, in January 1875, that a new constitution should be framed, as the existing one, which necessity had forced upon the people, was incongruous and objectionable in many of its provisions, while no reason existed for submitting to it longer. The people were eager to cast off this reminder of their past humiliation, and a new constitution, marked by some striking changes, was ratified by popular vote February 17, 1876. A general election was held the same day, Coke being reëlected governor. Both the new constitution and his reëlection were carried by an immense majority. On May 5th, however, he was elected to the United States senate, and soon afterward resigned the executive office in favor of Lieutenant-governor Richard B. Hubbard, a graduate of Harvard law school, who settled in Smith county in 1852. In 1856 Hubbard was appointed United States district attorney and was elected to the legislature in 1858. During the civil war he commanded the 22d regiment Texas infantry, and rose to the rank of brigadier-general.

Hubbard was succeeded by Oran M. Roberts, whose policy savored somewhat of centralism. He objected to the restriction of judicial power, and was in favor of increasing that of the executive. He even advocated amendments to the constitution, but on this point was unsuccessful. Roberts was a South Caro-

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linian by birth, and selecting law as his profession, commenced practice in 1838, being then twenty-three years of age. Having settled in San Augustine county he became district attorney in 1844 and district judge in 1845. In 1861 he was chosen president of the secession convention, and, acting in that capacity, proclaimed Texas a free and independent state. He served for a time in the confederate army, but was presently elected chief-justice of the state. Roberts was a member of the first reconstruction convention in 1866, and was afterward elected to the United States senate, but was not allowed to take his seat. In 1874 he was restored to his position as chief-justice, and was reëlected two years later.

Nothing marks progress in civilization more clearly than diminution of crime, and of this Texas affords a striking illustration. Within the last twenty-five years no state in the union can present so dark a record of outrages, robberies, and murders as that which, for a portion of this period, stigmatized Texas as a land of lawlessness and violence. At present she can proudly and justly boast that her criminal calendar will bear comparison with that of any other state. The cause of this change is to be found in the tide of immigration which set in from Europe after the civil war, and the prompt and fearless administration of justice during recent years. The new settlers, reared under the uncompromising sway of monarchical governments, in countries where the laws were rigidly enforced, brought with them a love of order, which was not without its effect upon the community. Under the constitution of 1876 a stern code of laws was enacted, and with the moral support of the community, the judges, no longer intimidated as heretofore, scrupulously enforced them.

Previous to 1883 the penitentiary system was faulty and inefficient, but in April of that year an act was passed for the better management of such establish-

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ments, the third section of which is deserving of the highest praise, inasmuch as it did away with the evil practice of leasing the penitentiaries and returned them to the control of the state. This section was introduced by Barnett Gibbs, a native of Missouri, who, having graduated at the university of Virginia, also took a degree at the Lebanon law college. Settling in Dallas county, Texas, he was elected city attorney in 1875, and was twice reëlected. In 1883 he was chosen senator to the state legislature, and in 1884 lieutenant-governor, being then in his thirty-fourth year. His administration was no less creditable to himself than satisfactory to the people whom he governed.

In March 1699, twelve years after the death of La Salle, the explorer of the Mississippi, a French fleet anchored at the Chandeleur islands, off the coast of southeastern Louisiana. The object of the commander, Iberville, was to found a French settlement near the mouth of that river, which he explored as far as its junction with Red river. This mighty stream, with its gloomy magnificence, its immense volume of water and its reed-clad banks, offered no inducement, and retracing his course, he selected the bay of Biloxi as a more suitable location for a colony. The Indians in the neighborhood were friendly, and near the mouth of the bay, on a spot partially fortified by nature, a fort was constructed, huts were built around it, and the settlers began to clear the land. This was the first French settlement on the gulf of Mexico. Leaving two younger brothers, Sauvolle and Bienville, as commander and lieutenant of the fort, Iberville set sail for France. The three brethren were sons of a French Canadian, and are prominent figures in the history of Louisiana.

It was a lonely and wearisome life which the colonists led at Biloxi, and the return of Iberville in December was greeted with joy. He brought with him

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the news that the king had appointed Sauvolle governor of Louisiana, Bienville lieutenant-governor, and Boisbriant, a cousin, commander of the fort. Iberville then erected another fort, about fifty miles further up the stream, and leaving it in charge of Bienville again returned to France.

In July 1701 Sauvolle died, and was succeeded by his brother Bienville, who, in conformity with the king's instructions, removed the colony to the site near which now stands the city of Mobile. For two years the little settlement was neglected by France, the nation being then at war with Great Britain, and during that period its inhabitants were reduced to the extreme of misery through famine and disease. Relief finally arrived; Chateaugué, also a brother of the governor's, appeared in 1704 with more emigrants from France, and with supplies of food and agricultural implements. Other vessels arrived in the following year, bringing young women who were willing to become settlers' wives—a thoughtful provision of the king—priests to minister to the wants of the soul, sisters of charity to tend the sick, and soldiers to protect the colony.

The settlement would now have been fairly on the road to prosperity but for internal dissension. La Salle, the intendant commissary of the crown, opposed the governor, and was supported by the curate De la Vente, whose pretensions to temporal power were presumptuous, and were checked by Bienville. In addition to this evil was the hostile attitude of the surrounding savages. Bienville's position now became critical. The death of his brother, Iberville, from yellow fever, deprived him of his powerful influence at court, and La Salle, taking advantage of it, biased the colonists and prejudiced the French government against him. In July 1707 he was removed from office, and De Muys appointed to succeed him.

But La Salle's intrigues failed. He was dismissed from office, and De Muys dying at Habana on his

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way to the colony, Bienville regained his position. In spite of his exertions, however, scarcity of food prevailed for several years, and the colony dragged on a lingering existence until 1712, when the king granted to Anthony Crozat the exclusive privilege for fifteen years of trading in Louisiana—at that time an immense region with undefined boundaries.

The concessions to Crozat were such as to make him lord of Louisiana. All the lands which he placed under cultivation were to be his property forever; the monopoly of all the manufactures which he established was secured to him; he had the privilege of annually importing one ship-load of negroes from Africa; and the exclusive right to work all mines of the precious metals that might be discovered in that region. In return he was required to send each year two ship-loads of colonists to Louisiana, and to assume the expenses of administration after nine years, including those of the garrisons of forts. French laws and usages were to prevail, and a local government council—called the superior council—was to be established.

In 1713 Lamothe Cadillac arrived as governor, Bienville being retained as lieutenant-governor. The former made himself ridiculous; his administration was a failure; and in 1716 he was dismissed from office and Bienville reinstated, though in the following year he was relieved by De l' Epinay. Meantime all Crozat's efforts to carry out his great scheme of peopling Louisiana and reaping a harvest of wealth had proved abortive. His agents discovered no mines; they failed to establish a trade with the Spanish provinces, either by land or sea; the fur traffic with the Indians barely paid the cost of maintaining factories among them; and discord reigned in the colony. After spending several millions, in August, 1717, he surrendered his charter. In the same year a similar monopoly was granted to the Western Company, or Company of the Mississippi, of which the famous

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John Law, of evil renown, was appointed director-general.

Under the management of the company the colony made some progress, but the means resorted to in order to obtain settlers were most iniquitous. When emigration ceased to be voluntary force was used. Vagrants, beggars, and the veriest scum of the country were kidnapped, and respectable people, whom enemies wished to get rid of, were smuggled away, and shipped in company with this rabble to the pestiferous coast of Louisiana.

In 1718 Bienville was again appointed governor, and in that year founded New Orleans, whither the seat of government was removed in 1723. His administration was an able one, though marred by his troubles with Indians and the machinations of his political foes, with whom he was unable to cope. In 1724 he was called to France to answer charges brought against him by his enemies, one of which was that he maltreated the Indians. Before leaving, however, he promulgated the so-called Black Code containing laws relating to slaves, and which remained in force until the transfer of Louisiana to the United States. It is curious to notice that the first article in this code decrees the expulsion of Jews from the colony. In this year, also, the king, at the request of the superior council of the colony, issued an edict declaring that the voluntary killing or maining of a horse or horned animal, by any one but the owner, should be punishable with death! In spite of all his services and his honorable career Bienville's adversaries proved too strong for him, and he was removed from office, together with his brother Chateaugué, who held the position of lieutenant-governor.

Under the change of administration the colony languished, and indeed went from bad to worse. The Natchez became hostile, owing to the oppressive proceedings of the officer in command at the French settlement of that name. On November 29, 1729,

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the male inhabitants of this settlement to the number of 250 were massacred, while about 300 women and children were carried into captivity. At other places massacres also occurred, and Frenchmen were murdered whenever opportunity was presented. Then followed a long, bloody, and expensive war, and in 1731 the Mississippi Company, no longer able to support the cost of maintaining a colony from which no profit was derived, surrendered its charter, as Crozat had done. The company had, however, done much to build up the settlement, the population of which had increased from 500 to 5,000 white persons, with about 2,500 negroes. In 1732 the superior council of Louisiana was reorganized, and in the following year Bienville was once more reinstated as governor, to the gratification of the colonists, who regarded him as the one best fitted to reconcile their differences.

But the governor's position was a most difficult one. A disastrous war broke out with the Chickasaws, against whom an expedition, undertaken at great expense, was unsuccessful, though a hollow peace was patched up. Bienville began to lose favor with the government, and in 1743 was recalled, being relieved in May of that year by the Marquis de Vandreuil. He never returned to Louisiana.

De Vandreuil's administration marked an epoch in the history of Louisiana The colony was fairly prosperous; the Indians were successfully dealt with; and the French gained the ascendency over the English, whose intrigues directed against the colony from Carolina, had long been a thorn in its side. In 1753 De Vandreuil was appointed governor of Canada, and was succeeded by Kerlerec.

Kerlerec ruled for ten years, during which the colony made no progress. Troubles with Indians again occurred; the English almost cut off communication with France; and the annual expense to the crown in supporting the settlement was enormous. The French government began to regard Louisiana

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as a useless burden. Crozat and the Mississppi Company had alike failed to make the colony remunerative after the expenditure of many millions of dollars, and no better result attended the efforts of the government. It would be better to be rid of such a domain, and in February, 1763, the king ceded to Great Britain all that portion of Louisiana lying east of the Mississippi, and to the king of Spain the portion on the west side of that river. In June, 1763, Kerleric was relieved by D'Abbadie, and on his return to France was confined in the bastile, being accused of mal-administration.

The English lost no time in taking possession of the territory thus acquired. In October Mobile was occupied, in the name of his sovereign, by George Farmer, who at once began to display the exacting and domineering disposition characteristic of his nationality. He issued a decree requiring the French inhabitants to take the oath of allegiance within three months, if they wished to be protected in their rights and property; whereas by the terms of the treaty they were allowed eighteen months in which to emigrate if they chose to do so. Moreover, they were prohibited from disposing of their lands until their titles were verified and approved by the commanding officer. In June 1764 the Illinois district was abandoned by the French, and Baton Rouge, Natchez, and other places being now occupied by the English, vessels of that nation plied up and down the Mississippi, and an extensive contraband trade was established with New Orleans. Slavers also disposed of their human cargoes at all available points. Meanwhile the natives displayed much animosity toward the English, and several of the smaller tribes migrated across the river where lands were assigned to them.

Unlike the English sovereign the king of Spain was in no haste to take possession of the portion of Louisiana that fell to his share; nor was it until March, 1766, that a Spanish governor, in the person

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of Antonio de Ulloa, arrived at New Orleans. He was accompanied by Juan Joseph de Loyola, as intendant and commissary of war; Estevan de Gayarre, comptroller, and Martin Navarro, treasurer. Ulloa seems to have acted in a somewhat peculiar fashion. He refused to present his credentials to the superior council, which he treated with brusqueness and contempt. He delayed taking possession of the country in the name of his king; and entered into a compromise with Governor Aury, who succeeded D'Abbadie, with regard to the government, whereby the former retained his position, though subject to Ulloa's directions.

The feelings of the colonists had been deeply hurt by the partition of Louisiana and its cessions to foreign powers, and Ulloa therefore met with a cool reception. The inhabitants of New Orleans could not bring themselves to believe that the transfer to Spain was a positive and permanent fact, and the presence of a Spanish ruler among them was an offence. Every obstacle was thrown in his way; the French troops refused to enter the service of Spain; the merchant class made no attempt to hide their discontent; and a rebellious spirit everywhere prevailed. By the close of 1767 the inhabitants openly expressed their aversion to Spanish domination, and in the following year a conspiracy was formed, with some of the most influential men as leaders. to drive the Spaniards out of Louisiana.

On the morning of October, 28th, the insurrection broke out. The streets of New Orleans were thronged with people armed with all sorts of weapons; Ulloa, with the assistance of Aubry, escaped to a Spanish frigate on the river; and on the following day a decree of the superior council was passed declaring that Ulloa had violated the laws and customs of the colony, and allowing him three days in which to leave it. There was no alternative, and the governor withdrew without even attempting to assert his authority.

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But retribution was not long delayed. General Alexandro O'Reilly was commissioned by the Spanish government to proceed with a sufficient force and take possession of Louisiana in the name of the king of Spain, and on August 17, 1769, he appeared off New Orleans with a fleet of twenty-four vessels. On the day following he landed an army of 2,600 men composed of the choicest troops of Spain. Resistance was not to be thought of; the ceremony of taking possession was performed with due solemnity, and the flag of Spain was hoisted in the place of that of France.

A few days later twelve of the chief conspirators were arrested and tried, five of whom suffered capital punishment; one died in prison; and the remaining six were condemned to terms of imprisonment varying from a life term to a period of six years.

O'Reilly now proceeded to reform the government. He declared that the inhabitants had fortified the right that had been granted to them in the cession act, and that the insurrection compelled his Majesty to apply to the colony the Spanish form of government. The superior council was accordingly abolished and a cabildo substituted in its place. This judicial body consisted of six perpetual regidores, two ordinary alcaldes, an attorney-general, and a clerk, with the governor as president. O'Reilly also issued a set of instructions to functionaries and to the public, which in reality constituted a civil and criminal code. Having completed his mission he delivered up the government to Louis de Unzaga, and withdrew his forces from the coast.

Unzaga's administration was mild and conciliatory, and soon the colonists became reconciled to the new form of government. At the same time it must be admitted that contraband trade was carried on to an enormous extent with the English. On February 1, 1777 he was succeeded by Bernardo de Galvéz, and from that year down to 1803 five more Spanish

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governors ruled in Louisiana. By a treaty concluded at St Ildephonso October 1, 1800, the king of Spain retroceded Louisiana to France, in return for which the duke of Parma was to be put in possession of Tuscany by Napoleon. This treaty was kept secret, as it was feared that England, then at war with France, might take possession of the country. Meantime the United States had gained their independence, and though by the treaty of 1783 Great Britain no longer retained any portion of Louisiana, the Americans began to be regarded as dangerous neighbors. The Spanish governor remained in office until 1803, when Napoleon, contrary to the terms of the treaty with Spain, sold the territory to the United States. Thus the province, which had cost both France and Spain enormous sums, without making any adequate return, began a new career under a more modern and enlightened government. The American flag was hoisted in New Orleans on December 20, 1803, W. C. C. Claiborne, governor of Mississippi, and General Wilkinson being the United States commissioners, and the former taking charge of the provisional government.

By act of March 26, 1804, the newly acquired territory was divided into two sections, one including the present state and a portion east of the Mississippi, the other embracing all the region north and west of it. The former was admitted as a state in April 1812, with the name of Lousiana, which was substituted for that of Orleans, and in June following the name of the latter, which had also been Louisiana, was changed to that of Missouri.

On the east side of the Mississippi the territory acquired by the treaty of 1783 had already been parceled into large divisions, which in turn were subjected to subdivision. In 1798 the territory of Missisippi was formed, and included Alabama until 1817, when the latter was separated from it, and

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Mississippi was raised to the dignity of a state. Tennessee, which was settled by Anglo-Americans in 1756, remained a part of North Carolina until 1794, when it was organized into a territory, being admitted a state two years later. Similarly Kentucky was a county and judicial district of Virginia until 1790, when it became in turn a separate territory, and in 1792 a state.

The segregation of these two states marks a divergence in political opinion which is well exhibited in the attitude assumed during the civil war. In east Tennessee the people were strongly opposed to separation from the union, while in west Tennessee secession was the dominant sentiment. The popular vote, however, decided in favor of the confederacy, and the state suffered in conseqence; nevertheless, on account of its loyal element, it was one of the first to be readmitted into the union. Kentucky's action was still more marked. At an early date the people had shown an inclination to obtain an independent nationality, and when the civil war broke out the same spirit of independence was exhibited by the Kentuckians assuming a position of neutrality. Being equally opposed to the revolution in the south and to coercion by the north, they determined to resist invasion of the state by the forces of either side, and the requisition for volunteers, made by the secretary of war, was met with a refusal to furnish troops. At the elections, however, of May and June, a large majority of the people proved to be in favor of the union, and a large body of volunteers was raised.

Proceeding northward, we come to the Illinois region, which, in July 1787, was constituted the northwest territory under a single government, and included all the country lying north of the Ohio river. The early history of this portion of the United States is little more than a narrative of incessant hostilities with the Indians, which greatly impeded the settle-

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ment of the country. But westward migration could not be resisted, and in 1800 Ohio was appointed a separate territory, the remaining portion of the original northwest territory being included in the new government of Indiana. Then followed, as a natural consequence of the pressure, further subdivisions, and in 1805 the territory of Michigan was organized, and those of Indiana and Illinois in 1809, the latter comprising what are now the states of Illinois and Wisconsin and a part of Minnesota. The final division was made in 1836, when Wisconsin, meaning "wild-rushing river" in the Indian language, was segregated from Michigan, to which it had been annexed partly in 1818 and partly in 1834. All these territories in time reached the dignity of statehood as their population increased.

Of a somewhat later organization are the states lying west of the Mississippi. Missouri was admitted with its present area in 1821. The efforts made to prevent the extension of slavery into new states led to the passage of the famous compromise bill of 1820, by which it was determined that Missouri should enter the union as a slave-holding state, but that in future slavery should not be established in states formed out of territory lying north of latitude 36° 30′. Arkansas had already in 1819 been separated from Missouri, and acquired her position as a state in 1836. Being in the slave-soil portion of the United States she naturally fought on the side of the confederacy.

Next in priority to enter the union was Iowa, "the beautiful land." This portion of the country had been successively under the jurisdiction of Michigan and Wisconsin until June 1838, when it was made a separate territory. It originally comprised all the country lying north of the present state between the Mississippi and Missouri rivers. In 1864 it was admitted to statehood, and three years afterward the territory of Minnesota was detached from it. In this latter region an important trade with Indians was

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formerly carried on, and in 1816 foreigners were excluded from it, Fort Snelling being established a few years later to protect the traffic.

No state in the Missouri basin has encountered more difficulties in the settlement of the slavery question than Kansas. In May 1854 congress passed an act organizing the territories of Kansas and Nebraska; but in that act the Missouri compromise of 1820 was declared inoperative and void, the question of slavery being thus left to the decision of the people. A considerable immigration set in from free states in the north, while at the same time settlers from Missouri were passing into Kansas, bringing their slaves with them. Thus free-state and pro-slavery parties were formed, the contest between which reached such a degree of violence that the factions took up arms against each other. In Missouri a secret society was formed with the object of securing Kansas as a slave state, and voters were sent to the polls, which, moreover, were taken possession of by armed bands. During 1856–7 anarchy prevailed; men were slain, houses were burned; and a civil war raged throughout the country; nor was it until the end of 1857 that Governor Geary reported to the president that tranquility and order were reëstablished. Yet, owing to intruders from Missouri, the free-state men had no opportunity of letting their weight be felt until October 1859, when the popular vote showed that slavery was prohibited by a majority of nearly two to one. Kansas was admitted into the union in 1861, and during the early part of the war suffered considerably from confederate guerillas.

Though Nebraska escaped the civil dissensions which racked her neighbor on the south, her growth was slow, owing to the hostilities of the Indians. An enabling act providing for the admission of the territory into the union was passed in April 1864, but the territorial legislature did not frame a constitution until early in 1866. The bill passed by congress for

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the admission of Nebraska did not, however, receive the signature of the president, but in the following ing year a second bill, which he again vetoed, was passed by congress over his veto. The fundamental condition on which the act enabled Nebraska to enter the union as a state was, that there should be no denial of the elective franchise to colored people. Dakota, which originally formed a portion of Nebraska, was organized as a territory in 1861, and comprised the portions of Montana and Wyoming lying east of the Rocky mountains, which were afterward segregated for the formation of those territories.

From the above brief outline of the development of the Mississippi valley and the Missouri basin, and their division into populous and thriving states, the reader will mark the contrast presented by the failure of France and Spain to colonize these regions, and the success of the more practical efforts of the United States. Step by step the Anglo-American pressed forward, overcoming alike physical difficulties and the opposition of the natives. Prosperous commonwealths were organized one after another, as the conquest over nature and the subjugation of the savage were effected, until a population of more millions peopled the land than there were thousands at the time of its acquisition. Small trading-posts have grown into large towns, and insignificant towns have become great cities, peopled by hundreds of thousands, busy with all the varied industries of life.

Before sketching the political affairs of Oregon, whither was directed the first overland migration from the eastern states, I will give the biography of one of her earliest and most respected judges, one to whom she is also largely indebted for her excellent system of jurisprudence.

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Matthew P. Deady

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CHAPTER XIX.

LIFE OF MATTHEW PAUL DEADY

Four things belong to a judge: to hear
Courteously, to answer wisely, to consider
Soberly, and to decide impartially.

ORIGIN OF THE NAME—PARENTS AND THEIR CHARACTER—EARLY ENVIRONMENT, AND EDUCATION—RELIGIOUS EXPERIENCE—LAW STUDIES AND PRACTICE—ADMISSION TO THE BAR—POLITICAL LIFE—INTEREST IN EDUCATION—MARRIAGE AND HER FAMILY—PRESIDENTIAL APPOINTMENT OF SOME NOTABLE DECISIONS—ORATORICAL ABILITY—CHARACTER.

THE subject of this early sketch will tell the story of his early life autobiographically. This is interesting, for autobiography has charms peculiar to itself. Moreover, this autobiographer is one who possesses the gift of narrative—the "knack of telling."

On the threshold of his public career he lays down the pen. Speaking in the first person he says:

My father, Daniel Deady, was a native of Kanturk, county Cork, Ireland. He was born on February 25, 1794, and died on April 9, 1878. He was educated at a school, then of some local repute, in the old town of Mallow, where he was subsequently employed as a tutor. When a young man he emigrated to the United States, landing at Boston, where, on June 10, 1823, he married my mother, Mary Ann McSweeny, a native of that city. Her father, Paul McSweeny, was also a native of county Cork, and her mother, Miss Catherine [illegible], was a native of England.

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Matthew F. Leonard

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CHAPTER XIX.

LIFE OF MATTHEW PAUL DEADY.

Four things belong to a judge—to hear
Courteously, to answer wisely, to consider
Soberly, and to decide impartially.—*Socrates.*

ORIGIN OF THE NAME—PARENTS AND THEIR CHARACTERISTICS—BIRTH, EARLY ENVIRONMENT, AND EDUCATION—REPUTATION—TEACHING EXPERIENCES—LAW STUDIES AND PRACTICE—ACROSS THE PLAINS TO OREGON—POLITICAL LIFE—INTEREST IN EDUCATION—MARRIAGE—MRS DEADY AND HER FAMILY—PRESIDENTIAL APPOINTMENT OF JUDGE DEADY—SOME NOTABLE DECISIONS—ORATORICAL ABILITY—CHARACTER.

THE subject of this study consents to tell the story of his early life autobiographically. This is gratifying, for autobiography has charms peculiar to itself; moreover, this autobiographer is one who possesses the gift of narrative—the "knack of telling."

On the threshold of his public career he lays down the pen. Speaking in the first person he says:

My father, Daniel Deady, was a native of Kanturk, county Cork, Ireland. He was born on September 25, 1794, and died on April 9, 1878. He was educated at a school, then of some local repute, in the old town of Mallow, where he was subsequently employed as a tutor. When a young man he emigrated to the United States, landing at Baltimore, where, on June 10, 1823, he married my mother, Mary Ann McSweeny, a native of that city. Her father, Paul McSweeny, was also a native of the county Cork, and her mother, Miss Chester, was a native of England.

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The name is supposed to be of Danish origin, and is properly pronounced Deedy. Once, when my father was teaching in a strange neighborhood, he was asked what was the proper pronunciation of his name. He replied that genteel people called him Deedy, while the common folk said Dady. He said the result was, in that neighborhood, he was generally called Deedy.

He was a rather stern, self-willed man, with abundance of moral courage, and believed in the rule of what Walter Besant calls Father Stick. He was somewhat above medium size, and had dark hair and brown, hazel eyes. My mother was tall and fair, and so was her mother. They both had auburn hair. Her father was short of stature, and had beautiful black hair, fair complexion, and blue eyes. He was a cabinet maker in early life, but had become a trader and shop-keeper long before my time. For some years after coming to the United States my father followed teaching, and wherever he went was known as the industrious schoolmaster.

I was born on May 12, 1824, near Easton, in Talbot county, Maryland. My parents had five children, of whom I was the eldest. I went to school to my father most of the time until I was twelve years of age. In 1828 we moved from Baltimore to Wheeling, West Virginia, where my father was employed to conduct the Lancasterian academy—a large school, with one teacher and many monitors. The system was called the monitorial or Lancasterian. My father had fitted himself for it before coming to the United States. As I remember it, the rod was an important part of it. My father bought property in Wheeling of old Noah Zane, the proprietor, on which he built houses to rent. Wheeling was our home or resting place for some years, but in the latter part of this period my father was engaged in teaching near Cincinnati, Covington, Kentucky, and Rodney, Mississippi, taking the family with him. In the fall of 1833 we visited Baltimore, particularly to see my

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mother's maiden sister Eliza, who was dying of consumption. On the way back to Wheeling the former took cold and we stopped for the winter twelve miles west of Fredericktown, where my father took a school and my mother died of consumption, in the thirty-eighth year of her age, on May 31, 1834. In consequence of this the family was broken up for the time being, and I spent the greater portion of the next two years of my life with my grandfather and uncle in a store in Baltimore. Then I returned to Wheeling with my father, where I spent the time at school and in a music store until the spring of 1837, when my father bought a farm across the river in Ohio and removed there, with the view of giving his sons—three in number—the benefit of country life and labor on a farm. Thereafter I lived on a farm with him nearly four years and did my share of work, such as hoeing, mowing, reaping, clearing, chopping and hauling wood, making fence, plowing, threshing with the flail, milking cows, and taking care of stock.

Up to this time my reading, considering the scarcity of books, was considerable. It included *Pope's Iliad* and *Odyssey*, copies of which my father had brought with him from the old country, *Tales of a Grandfather* (of France), *Perigrine Pickle*, *Children of the Abbey*, *Thaddeus of Warsaw*, *The Scottish Chiefs*, *Weem's Life of Washington*, *Hume's History of England*, *The Douay Bible*, and several school readers, such as the *Enfield Speaker*, a book full of the gems of English literature, *The English Reader*, *The Columbian Orator*, and selections from Mrs Barbauld and Miss Edgeworth. But I soon grew tired of living in the country, and on some disagreement with my father I left home in February 1841, and went to Barnesville, then a thriving village, eight miles from the national road, and undertook to learn the blacksmith trade. My employer, John Kelly, was an enterprising man and an excellent mechanic. In after life he was treasurer of the county for some years, and, subsequently, was

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one of the founders of the busy glass and nail town of Bellaire, on the Ohio river. His wife, Mrs Rachel Kelly, was the daughter of the patriarch of the village, Dr Carolus Judkins, a quaker and a physician, originally from North Carolina. The four years I spent under the roof of this excellent woman were not without profit to me.

At that time there were no machine or factory-made articles in use in that country, everything being made by hand. The shop was a large one, containing three fires. We did all kinds of work—such as ironing wagons and buggies; making edge tools, from a broad axe to a pump auger or plane bit; farm tools, from a plow to a hoe; mill irons, saw and grist; all kinds of chains, bridle bits, and harness irons, horse-shoeing, and all kinds of repairing.

I made a verbal agreement to serve for four years, in consideration of which I was to be boarded and lodged with the family, and to receive $36 the first year, $48 the second, and $60 the third, and six months' schooling. The compensation for the last year was left to be fixed according to the progress I had made when the time came. It was then fixed at $84, which was considered quite a compliment to my skill and industry. Out of my wages I clothed myself, bought my school books, and had a little spending money, but very little.

I attended the Barnesville academy in the winter of 1843, and was complimented by my teachers on the progress I made, and, by way of distinction, was allowed to declaim at the close of the school the extract from Wirt, "There is no excellence without great labor."

At the end of four years I had become more than an average workman and was complimented by my employer on my mechanical skill and ability. But, during my attendance at the academy, my fondness for reading and intellectual pursuits was stimulated, and I concluded to follow my inclinations in that

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direction. Accordingly, I attended the academy another four months in 1845, on my own account. During this time the school was conducted by Professor Nathan R. Smith, an interesting old man, the author of a grammar of the English language, and an excellent scholar. When I left school the professor gave me the following certificate, which I have preserved with great care and now regard with a species of reverence:

"BARNESVILLE, July 7, 1845.

"*To whom it may concern:*

"This certifies that Matthew P. Deady is a young gentleman of good moral habits and character. As an English scholar his attainments are respectable, and in most of the important branches extensive, such as arithmetic, mathematics, geography, philosophy, chemistry, etc. Therefore, I cheerfully recommend him as qualified to take charge of an English school. He has also paid some attention to Latin.

N. R. SMITH,

[L.S.] *Principal of the Barnesville Academy.*"

Armed with this authority I set out to find a school. But, before doing so, I went to Benjamin Mackall, a merchant of Barnesville, and then and still the first citizen of the place, and asked him for the loan of $30, wherewith to discharge some small obligations I had incurred and been unable to meet while going to school. He gave me the amount without a word, which I repaid with great pleasure within three months from the receipts of my first school, and for which, twenty-five years afterwards, I had the pleasure of sending him a copy of the first volume of my judicial reports.

Proceeding to St Clairsville, the county seat of the county, I called on the school examiner, John T. Tidball, an old lawyer and uncle of General Tidball, of the United States army, who, after giving me the usual perfunctory examination, and reading Professor Smith's testimonial, handed me a certificate, which I have preserved, and for which I gave him my last half dollar, to the effect that I was "qualified to teach writing, arithmetic, English grammar, geography, mathematics, natural philosophy, and chemistry," and that I was "a young gentleman of good moral char-

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acter and sober and temperate habits, and fully competent to govern and manage a school."

I soon obtained a school in the neighborhood of St Clairsville, the tuition being payable half in subscription and half in public money. I taught this school for six months, earning thereby about $22 a month. I had as pupils two quaker girls, in whom I took great pleasure. The oldest, Miss Jane Edgerton, has since attained distinction as a teacher in that county and as inspector of prisons.

About the same time I commenced reading law with the late Judge William Kennon, of St Clairsville, a good man and a great lawyer. He had been in congress several terms in his earlier life, and was contemporary there with the famous Philip Dodridge, of West Virginia, of whom he told many interesting stories. He was then president judge of the court of common pleas, and since a judge of the supreme court of the state. In the spring of 1846 I visited Baltimore on some business connected with my grandfather's estate, in which, as one of the representatives of my mother, I had a small interest. I travelled on the stage to Cumberland, and thence to Baltimore on the Baltimore and Ohio railway. In 1833–4 I had travelled over the same road, between Fredericktown and Baltimore, in a "dead-ax" car, drawn over a flat rail, laid much of the way on granite ties, partly by steam and partly by horse-power, at the rate, probably, of ten miles an hour.

On October 26, 1847, I was admitted to the bar of the supreme court of the state, before Judges Matthew Burchard and Peter Hitchcock. I remained in St Clairsville in the office of Mr Henry Kennon, master in chancery and a brother of Judge Kennon, until the spring of 1849. In this time I had some business, mostly before justices of the peace, and was clerk of the township one year. I paid some attention to politics, made some speeches, and spent a good deal of

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time in the society of the young ladies. I remember these as happy, happy days.

The winter before starting across the plains I belonged to a polemic society. In view of the recent discovery of gold in California we discussed the question, "Whether mines of the precious metals are an advantage to a country in which they exist?" I was on the negative side and cited the experience of Spain and her colonies as proof that mining for gold and silver was an injury to a country. Whatever I did with my hearers, I convinced myself that I was in the right. And this, probably, had much to do with my casting my lot in Oregon, when all the world was going to California.

On April 17, 1849, I started across the plains, under very pleasant and favorable auspices, as one of the family of a gentleman of St Clairsville, who had been appointed an Indian agent for the Pacific coast, with government transportation thereto, for himself and family of six. But the arrangement for transportation fell through, and I was thrown on my resources and worked my way to Oregon.

On the morning of November 14th I got out of a canoe on the bank of the Wallamet, where the city of Portland now stands, and took a look about the place, while our Indian crew cooked their breakfast. I had breakfasted two miles below, at Guild's place, where I staid all night and slept in a house for the first time for over five months.

Portland was then in the day of small things. But even at that early day there were sea-going vessels tied to the bank or moored in the river, which signified that the place was potentially in the highway of the world. That evening I reached Oregon city—then the capital of the country, socially and commercially. There I rested a few days, and leaving my little hair trunk, which I had gotten safely across the plains, with a few books and clothes, I started on foot for Lafayette. This was then a promising young

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town in its third year and the county seat of Yamhill county, then and now the best agricultural country of its acres in the state. There I found Professor John E. Lyle conducting quite a large school. The people had generally been to California, and returned with plenty of gold dust. Many of them had gathered into the town, where the young people and children were enjoying the luxury of going to school.

My purse was nearly empty and the present means of replenishing it were very limited. I soon made an arrangement to go into the school with the professor for the remaining few weeks of the term for a compensation sufficient to pay my board. This done, I taught another term as an equal partner, out of which I made about seventy-five dollars per month, and a pleasant and profitable acquaintance with most of the best people of the county. Not a few boys and girls, now heads of families, remember their attendance at this school with pleasure, as a place where they got the elements of a practical education, and still speak with pride of having gone "to school to Judge Deady."

Before commencing the second term I went to Oregon city to get a supply of school books. There had just been a great freshet, and all the bridges and ferries on the road had been carried away. The only mode of travel was to take an oar on a boat, bound to the place, and laden with two thousand five hundred pounds of flour, with four other fellow passengers and oarsmen. I got aboard at Dayton in the morning and reached Oregon city the next day—staying all night at Butteville, at the Geers. I came back on the return trip. The boat was laden with "store goods" and a new crew of passengers. We were two nights and part of three days making the trip. We came near being shipwrecked at Rock island rapids, and slept in the rain one night without anything to eat.

I also acted as general adviser and aid to the county commissioners in setting the legal machinery of the county in motion, under the new territorial organiza-

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tion. Here, also, I made the acquaintance of my friend, Mr Ahio Watt, then clerk of the county, and one of the best and most useful men in the country.

In March 1850, Judge O. C. Pratt held a term of the district court at Lafayette, and there I made my *debut* in Oregon as a lawyer in three cases, a criminal action, a civil one, and a suit for divorce. The court was held in a large unoccupied room in Jacob Hawn's tavern. The bench and furniture were improvised for the occasion. But the dignity and order of the court, so far as the same depended on the judge, would not suffer from a comparison with Westminster hall.

The first one hundred dollars I got ahead I sent back to St Clairsville to Henry Kennon, to discharge some pecuniary obligations I was under to him and other friends, who were kind enough to help me when I left home. They had heard that I died on the plains with cholera and gave up the amount for lost, and this remittance was the first news to the contrary. The discharge of this obligation, under the circumstances, gave me great pleasure and much credit with my friends.

At the election on the first Monday in June 1850, I was chosen, without the intervention of any caucus or convention, a member of the house of representatives from Yamhill county. During the summer I took charge of the store of my good friend, Elder Glen O. Burnett, brother of Governor Burnett, of California, for a couple of months, while he went to San Francisco to replenish his stock of goods. Here I enlarged my acquaintance with the people of the county, the method of doing business, and the value of articles of commerce. Gold dust and Spanish doubloons were a large part of the currency. For small sums I took a pinch from the customer's buck-skin bag of dust, while larger sums were weighed out in coffee and sugar scales, the store usually getting down weight. The Wallamet valley Indians were

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good customers, and in dealing with them I became somewhat proficient in the Chinook jargon.

Sometimes on Sunday I attended Campbellite or Christian meeting at the country school-house, not far from Lafayette. On one occasion I witnessed a trial there, which must have resembled, in simplicity and directness, a proceeding among the early Christians.

A brother was charged with being a silent partner in a saloon, and with taking his young daughters to a dancing party. He had been labored with, and did not deny the charges, but refused to acknowledge that he was in the wrong. On that day the matter was brought before the congregation. The prosecutor, then familiarly known as Little Preach, has since been somewhat noted as a politician and journalist. As soon as the services were over, he stepped on the platform, and turning his quid in his mouth and expectorating freely, read the indictment in a harsh, hanging tone. The congregation was composed of plain, serious people, and there was much feeling and some tears among the brethren at the prospect of a feud, and mayhap a split in the body, for the offending brother was well to do and had friends. But the prosecutor insisted that it was better to lop off the unworthy member, and a rising vote was taken, both men and women participating. On the saloon question the vote was twenty for and twenty-two against expulsion, while on the dance question it stood twenty-two for and twenty against expulsion; and the church was said to be for whiskey, but against the dance. And I lived to sentence the prosecutor to pay a fine for selling liquor to Indians. So runs the world around!

In December the subject of this study went to Oregon city, to attend the session of the legislature, where he met for the first time Asahel Bush, then clerk of the house, and also James W. Nesmith. With both of them he formed an intimate friendship, which colored his after life, and which, indeed, had a

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marked influence on the current of public affairs, causing them sometimes to be called the triumvirate. His public career was now commenced, and he has never since been out of the harness. During this session he served on several important committees, including the judiciary, and did a large amount of work in drafting bills, writing reports, and shaping legislation in the committees of the house. At the close of the session, on the request of the secretary, General Edward Hamilton, he prepared for publication the laws then passed, and, also, certain of those of the session of 1849, making the head and side notes thereto, the whole making a volume, which was published under the direction of the secretary. This was the first volume of laws published in the territory, and is sometimes called the Hamilton code.

In the summer of 1851 he was elected member of the legislative council from Yamhill county, defeating David Logan, then a young lawyer, and subsequently a noted man in Oregon. The contest was a warm one. An opposition was developed against Deady on account of a vote he had given in the late session of the legislature against a resolution which unqualifiedly endorsed the course of the delegate, Thurston, in congress, notwithstanding the confiscation of Dr John McLoughlin's land claim at Oregon city, in the passage of the donation act. The moral courage which he showed in this case, in voting as his conscience dictated, was thoroughly characteristic of the man, and foreshadowed many other like positions which he has taken in his subsequent career. This vote displeased Thurston's friends, and just then their name was legion. This feeling was cultivated by Logan, who for his own benefit affected to be the delegate's friend. But in spite of all opposition Deady was elected by a handsome majority. He served in the council two regular sessions, and one special one, being president of the council at the session of 1852–3 and chairman of the judiciary committee at the prior ones.

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He was the ruling spirit in the legislature, and took an active part in all its deliberations and proceedings.

On June 24, 1852, he married Miss Lucy A. Henderson, with whom he has lived happily ever since. She was the eldest child of Robert Henderson, a prosperous farmer of Yamhill county, who came into Oregon with his family in the immigration of 1846. Mr Henderson was born in Tennessee, and grew up in Kentucky. From there he moved to Missouri, where he met and married his wife, Miss Rhoda Holman, of Kentucky. The immediate ancestors of both were from Virginia. Judge Deady has three living children—handsome, stalwart sons. Edward Nesmith, who was born September 5, 1853, is a lawyer of good standing and ability, and considering the difference in the circumstances and opportunities, will doubtless honor his father's name and reputation, and prove a valuable member of society. Paul Robert, who was born November 20, 1856, is also a lawyer of promise. He has acted for some years as commissioner of the United States circuit court. The third son is Henderson Brooke Deady, who was born March 4, 1869. He is a talented youth of more than usual brightness, and is now engaged in the study of medicine.

Mrs Deady was born February 26, 1835, in Clinton county, Missouri, on her father's farm. In 1849 and 1850 she attended a boarding school kept by Mrs Thornton at Oregon city. Subsequently, and until her marriage, she attended Dr and Mrs Geary's school in Lafayette.

One who is qualified to speak of her says: "She is a lady of marked character, with a never-failing tact and a nice sense of propriety and the fitness of things. She carries her years lightly, and although over fifty she does not look to be more than thirty. She is of medium size and attractive in person, possessing a graceful figure and easy and agreeable manners, which take tone, it may be, from a dash of French blood in her veins. In complexion she is a decided brunette.

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Her large dark eyes, beautiful hair, pleasant smile, and sweet voice distinguish her in any company. She is a favorite in society, and in her home is a model of womanly devotion and kindness. In the battle of life she has performed her part cheerfully and faithfully, and she is entitled to a share of the credit in all that her husband has achieved. Her purity of thought, elevation of purpose, and gentle wisdom exert an influence on all around her."

In the spring of 1853 Mr Deady was appointed by the president one of the judges of the supreme court of Oregon. The territory was divided into three districts, and in every county of each of these one of the judges held a district court twice a year. Judge Deady took the southern district, which included the country south of the great valley. It was rapidly filling up with a farming population from "Oregon," as the saying was, and "the states," and with miners and traders from northern California. There were no considerable towns in the country and no courts had ever been held in it.

In the summer of 1853 he paid a squatter to abandon a claim on Camus swale, in the Umpqua valley, which he took under the donation act, and moved his family there in the fall. The location was a beautiful one, and he called the place Fair Oaks, taking the name from Thackeray, whom he was reading at the time. Indeed, while on the farm, and particularly during the long winter evenings, he did much good reading, including the English periodicals, making this altogether a profitable period of his life. There he lived until 1860, dividing his time between holding courts and improving and planting his farm, laboring regularly with his own hands. He was absent from home every year about six months, on the circuit and at the capital holding court, and in so doing travelling at least fifteen hundred miles, nine-tenths of which was done on horse-back. He organized the courts in the five counties of southern Oregon, opened the

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records, and often wrote them up during the evening. During this entire period he never missed a court or failed to be present at the appointed hour for opening one. And this remarkable record for inflexible punctuality was made in spite of the fact that the Indian war of 1855–6 occurred at this time, during which he travelled all over the country, and generally alone. The administration of justice in his district was prompt and satisfactory to the public, The laws against crime were impartially, but firmly enforced for both the high and the low. No man, however influential, could feel that he was above the reach of the court, and even the weakest knew that he could obtain substantial justice there. He once sentenced a white ruffian to the penitentiary for the crime of killing an Indian in an affray, a judgment unprecedented then or since in that country. An incident, illustrative of the man, I will give in his own words:

"On one occasion, on May 8, 1859, I was in Roseburg, the county seat of the county in which I lived, when a man was arrested on a charge of assault with intent to kill, after being pursued out of town and fired at by a disorderly crowd, calling itself a *posse comitatus*. The accused turned on his pursuers and fired his pistol, mortally wounding one of them, who was quite a prominent man and an aspirant for the sheriff's office. The accused was then knocked down and beaten and brought up the street, in front of the hotel, where it was ascertained that the wounded man was dying. Immediately a cry went up from the excited crowd—'Hang him! Hang him!' At this moment I came out of the hotel, where I had been with the dying man, and asked of a friend what was up. He answered, 'They are going to hang that man:' I replied, 'Not while I am here,' and started for the crowd. He warned me to keep away and attempted to restrain me. But I freed myself from his grasp, and in a moment forced my way into the center of a dense crowd of forty or fifty persons,

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where I found the prisoner on his knees, and his face covered with blood. One end of a lariat was round his neck, and the other end was in the hands of a mounted man, who was passing it around the horn of his saddle, preparatory to dragging the man to death. As soon as the latter saw me, he cried—'Oh! Judge, save me! for God's sake save me.' I never shall forget the look of terror and agony depicted on his bruised and blood-stained face. No time was to be lost. Grasping the loop of the lariat, which was already tightening on his neck, I threw it over his head, just as the rider started on his devilish deed. Directing the crowd to stand back, I called the sheriff to come with me and take the prisoner to jail, which he did. I never knew how I got through the crowd, but a young man of about one hundred and sixty pounds weight, told me afterwards, that he was on the outside of the ring and opposed his body to my further progress, when I caught him in my arms and threw him over my head backwards, whereupon way was made for me by the crowd. This was the only case of mob violence that occurred in the district while I was judge."

Meanwhile Oregon was increasing in population, and the subject of a state government was pushed forward, resulting at length in a general election of members to a convention for forming a constitution which was to be submitted to the people. The convention, consisting of sixty members and including the leading and substantial men of the various counties of the territory, met at Salem on August 17, 1857. Its proceedings were in the main earnest, sober and orderly, being generally characterized by a spirit of fairness and a desire to promote the public good. Thus a constitution was formed under which the people of Oregon have, for the most part lived contentedly and prosperously for over thirty years. Judge Deady, was a member from the county of Douglas, and was made president of the convention. The other judges

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of the supreme court, Williams and Olney were also members of the body. Although in the chair, Judge Deady took an active part in the formation of the constitution particularly in the committee of the whole, in which every debatable question was first considered and the subject took its final form. With the majority of the convention he favored the general features of the constitution, including biennial sessions of the legislature; a four years' term of office for the governor, secretary and treasurer of the state, rather than two years; making persons competent to testify without reference to their religous belief; requiring the seat of government to be located by a vote of the electors, and not otherwise; *viva voce* voting in the legislature; submitting the questions of slavery and free negroes to a separate vote of the people, although, at the same time, he expressed the opinion, that the state had no right under the constitution of the United States to exclude the latter from its limits.

Some features of the constitution which were of great value and importance to the state, were especially moulded by him. In doing this he had to overcome the force of habit which led the greater part of the convention to look upon the organic act of the territory as a precedent. Under it, the term of the judges was four years, and an alien might vote immediately on declaring his intention to become a citizen of the United States. Through his efforts the terms of the judges were extended to six years, and he lacked but one vote of making them eight, as they certainly should have been.

He was largely instrumental in adding a clause to the judicial oath of office, to the effect that the affiant would not accept any other than a judicial office, during the term for which he was elected. Notwithstanding this obligation, however, some of the judges of Oregon have cast a longing eye on the United States senate, but no legislature has as yet been found that would consent to be an accessory before the fact to the

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moral perjury involved in such preferment. He was not in favor of allowing an alien to vote before he was naturalized, but only succeeded in having provision made, that he should declare his intentions, at least one year before the election at which he offered to vote. He was largely instrumental in giving final shape to the provisions concerning corporations, which forbids their being formed otherwise than under general laws, and limits the liability of stockholders to the amount of their subscription to the capital stock of the corporation.

The sound, calm, and philosophical spirit in which Judge Deady viewed the many and complex problems which are involved in the making of a state are echoed in the spirit of his address to the convention at its adjournment: "I congratulate you upon the conclusion of your labors in so short a time, and with so little consequent expense to the country. For myself, while objecting to some of the provisions of this constitution, and looking to changes in time that will improve it, I accept it as it is. In reference to the question as to whether we are prepared to become a state, I have not been so sanguine as some individuals. Upon the questions of numbers and wealth, I think we are amply prepared. But a country requires age and maturity to prepare it to become an independent state and government. It is for the country to determine that question. For myself, I am willing to vote to enter on this new form of government, and the best reward I can wish you is, that your constituents may approve your labors."

The constitution was adopted by the people on November 9, 1857, by a large vote; and in June, 1858, an election, provisional in its effect on the admission of Oregon to the union, was held for the choice of a legislature and officers for the new state.

The judges of the supreme court were each elected from the district in which they lived and held courts. And the people of Judge Deady's district, notwith-

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standing the fact that it was a time of strong political feeling, and that he was always outspoken on public questions, recognized his eminent qualifications for the position and desired him to fill it. No one thought it worth while to run against him; he was named for judge from the southern district in which he lived and held court for nearly six years, and was elected without opposition.

On the admission of Oregon into the union, in 1859, he was appointed United States district judge. The place was acceptable to him, for he had made up his mind for a judicial career. Moreover, he practically had no option in the matter, for the position was literally forced upon him. All the leading men, who were candidates for congressional honors and state offices, and particularly his neighbor General Joseph Lane, were anxious to eliminate him from the senatorial contest, and agreed in asking him to keep out of the way and take the district judgeship. The solicitude of these candidates shows clearly how excellent were Deady's chances of the senatorship. But he did not desire the position, preferring the judicial office, and he told them so. But while the state was waiting for admission to the union, and after the congressional prizes had been drawn, and the state offices distributed, some of the persons who had been most urgent that he should accept the district judgeship endeavored to prevent his appointment. But General Lane, who had the power in the premises, was faithful to his word, and insisted on and procured Judge Deady's appointment. Upon the receipt of his commission, dated March 3, 1859, he qualified, and at the same time declined the position on the state supreme bench. In the fall of that year he opened court at Salem, the place appointed by the act of admission; but realizing that the bulk of the business peculiar to his court was likely to arise in Portland, he went to Washington by way of the Isthmus, and procured the passage of an act locating the court at Portland. "In the fall

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of 1860," he says, "I left the dear old farm—the domestic animals, with which I was on friendly and familiar terms; the garden, orchard, and vines on which I had labored for years—and removed to Portland, where I have lived ever since, engaged in holding the United States courts."

In the spring of 1862, he was appointed code commissioner for the state, and during the summer of that year he prepared the code of civil procedure, which was enacted by the legislature that met in the following September, substantially as it came from his hands. In the preparation of the code there were nominally associated with him ex-Senator James K. Kelly and Governor Addison C. Gibbs. They took no part in its preparation, but materially aided in its passage, the one as member of the senate and the other as governor.

During spare moments at this session, which he attended as commissioner, he prepared a general incorporation act, which was passed as prepared, with one unimportant addition. It has kept its place on the statute book ever since. This is perhaps the first act in the United States that put all business corporations on the same and a proper basis, by declaring that any three or more persons may incorporate to engage in any lawful enterprise in the manner provided by the act. The importance and the widespread influence of such a law is best realized when we consider how important it is to the prosperity of the entire community to have its large enterprises conducted on a sound and legitimate basis.

The legislature then asked him to prepare a code of criminal procedure and a penal code, and to report them to its next session in 1864. He prepared these, and also a justices' code with forms of proceedings before justices of the peace, and they were enacted as reported and are still in force. The thorough preparation of these important matters involved a large amount of labor and research; for the many impor-

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tant problems presented for solution had to be considered not only in their legal aspect, but also in relation to the needs of the country, and the real condition of society. The fact that they have withstood the test of actual use for so many years is the best proof of the soundness with which they were originally formulated. At this session the legislature passed an act incorporating the city of Portland, just as it came from Judge Deady's hands, which is still substantially in force. and has been the model for acts incorporating towns in Oregon ever since. At this session of the legislature there was a clamor from various ignorant and interested sources against the code of civil procedure which was passed at the session of 1862. The provisions making all persons competent witnesses, without reference to race or color, was the principal objection urged by those who were ignorant and prejudiced. The salutary provisions on the subject of divorce were railed at by sundry lawyers whose questionable gains were unfavorably affected thereby. The subject was referred to the judiciary committee of both houses, which did Judge Deady the honor of inviting him to participate in their deliberations. There the wind-bag was soon pricked, and after the adoption of a few unimportant amendments that he prepared, the subject was put to rest. During this session he also prepared statutes on the subject of the election and qualification of district attorney, sheriff, county clerk, treasurer, assessor, surveyor, commissioner of the county court, justices of the peace, and constables, which were passed as prepared, and are still in the statute book.

The legislature then asked him to make a compilation of all the laws of Oregon, including the codes then in force, for publication in one volume. This was a laborious and delicate undertaking. The miscellaneous laws of Oregon were scattered through the current statutes from 1843 to that date. The organic act of 1848 had continued in force the laws of the

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provisional government not inconsistent therewith, and the constitution of 1857 had continued in force all prior laws not in conflict therewith. It thus devolved upon the compiler to determine what acts or parts of acts were then in force, and what were not. He had also to substitute the proper officers and tribunals created by the constitution, for those charged with similar functions and jurisdictions under the territorial and provisional governments. This task required care, discrimination, and judgment in its performances. The work was well done and was enriched with many valuable notes of a historic as well as a legal character. The published volume, of some 1,100 pages, placed the laws of Oregon for the first time in convenient and accessible shape; and *Deady's Codes and Compilation* ranks high among productions of this kind. In 1874, at the request of the legislature, he made, aided by La Fayette Lane, a similar compilation. In all this work of codification and compilation, which was done without any clerical aid, Judge Deady was much more influenced by a desire to promote the public good, and to link his name with the legislature of the state, than by the meager compensation allowed by the legislature. Few if any states have had the same work done so well, or at so little cost.

By 1863 the depreciation of greenbacks had rendered the judge's salary altogether inadequate to his support. He had already been compelled to sell his farm to enable him to make payments on a home he had purchased in Portland. As a means of adding something to his resources he became the regular correspondent of the San Francisco *Bulletin*. He continued this work for nearly four years, writing a letter of a column or more every week, in which he spoke of passing events in Oregon, sketched her public men and measures, past and present, and had something to say on all important current matters; and now and then he gave a paragraph on an old

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book or author. The letters attracted attention in Oregon and elsewhere not less on account of the form than their substance. The experience of writing for publication under the responsibility of being seen in print—was he says, "a good school for me, besides the few hundred dollars it added to my scanty income."

In 1867–8–9, there was no circuit judge of the United States courts on this coast, and Judge Deady was assigned by Mr. Justice Field to hold the circuit court in San Francisco. He was thus engaged for some three months in each of these years, and cleared the long delayed docket. His holding the court during these sessions brought the people of California for the first time into direct contact with the judge, although of course his work in Oregon had already given him a high reputation as a jurist and patriotic citizen. By the end of his first term, the bar of San Francisco freely admitted his great abilities, and passed the following preamble and resolutions:

WHEREAS, the Honorable Matthew P. Deady, United States district judge for the district of Oregon, has, by the allotment of the United States supreme court, presided over the United States circuit court for the district of California during the present term, and for the first time been brought in contact with the members of the California bar: Therefore, be it

RESOLVED, That upon Judge Deady's departure from among us to return to his own district, the members of the bar of California desire to express their thanks to him for the cheerfulness and readiness which he has exhibited in the disposal of a large number of important cases, and that they must bear testimony to the judicial courtesy, ability, and learning with which he has performed his judicial duties, and has won for himself the respect, esteem, and confidence not only of ourselves, but of the public.

THOMPSON CAMPBELL, chairman,
GEORGE E. WHITNEY, secretary.

San Francisco, April 26, 1867.

During the first term he heard and decided the famous case of McCall *vs* McDowell (1 Deady 233), in which he held that congress alone had the power to suspend the *habeas corpus*, and that the attempted suspension of the writ by the president without the authority of congress on September 24, 1862, was illegal and void. Such an important decision as this deserves more than a passing notice, and attracted

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wide attention throughout the country when it was rendered. In April 1865, General McDowell, issued an order for the arrest of all persons indulging in public rejoicing over the assassination of President Lincoln. Under this order McCall was arrested in the interior of California, and confined at Fort Alcatraz, but was at length discharged. Subsequently he brought an action for damages against General McDowell, and the subordinate who made the arrest, in one of the courts of California. The action was removed to the United States circuit court, where it was tried without a jury. The court held that the action could be maintained against General McDowell, but not against the subordinate, who was acting in obedience to an order of his superior not illegal on its face. Damages were awarded to McCall in the sum of six hundred and thirty-five dollars. These were only intended to compensate the plaintiff for his expenses and loss of time. In the opinion, it was said, that while the words used by McCall did not constitute a legal crime, they were, under the circumstances, greatly to be reprobated.

The court held that while the act of 1863, giving power to the president to cause arrests to be made in particular cases, without the cause thereof being subject to enquiry on *habeas corpus*, either directly or by his subordinates, was constitutional and valid, yet, as a matter of fact, the president did not authorize McDowell to make the arrest in question, and therefore he could not claim the benefit of the act.

"The power of arbitrary arrest" said Judge Deady in the opinion, "is a very dangerous one. In the hands of improper persons it would be liable to very great abuse. If every officer throughout the United States during the suspension of the *habeas corpus* is authorized to arrest and imprison whom he will, as 'aiders and abettors of the enemy,' without further orders from the president, or those to whom he has specially committed such authority, the state of things

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that would follow can better be imagined than described."

In the excited state of public feeling at the time this celebrated decision was rendered, considerable hostile criticism was indulged in, but as time cooled the passions of the moment it came to be recognized universally that the opinion was based on sound principles which could not be subverted.

The originality which Judge Deady brings to bear on all his decisions, and his habit of viewing questions from the standpoint of first principles, was illustrated in the case of Martinetti *vs* Maguire (1 Deady 216). The action was brought about by the rivalry of two dramatic companies the one, who claimed the exclusive right to exhibit the *Black Crook*, seeking under the copyright law to prevent another from presenting a colorable imitation, under the name of the *Black Rook*.

The court found that the plaintiff had the exclusive right as assignee, to exhibit the *Black Crook* in California, and that the defendant was producing substantially the same play under the name of the *Black Rook*, but denied the relief sought on the ground that such a composition was not entitled to copyright.

On this point Judge Deady said, the power given to congress to grant copyright is limited to the purpose of promoting "the progress of science and the useful arts." The *Black Crook* is a mere lewd spectacle, however gilded. It in no way tends to the promotion of science or the useful arts, and is therefore not entitled to copyright.

Another case which came up while he was holding court in California attracted much attention throughout the entire country. In the Avery–Bigler case a general discussion arose on the subject of the tenure of office under the federal constitution and the laws, and of the power to remove incumbents from office. Judge Deady gave a thorough discussion of the constitutional principles involved, holding that the appointing power under the constitution,

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included the president and the senate—the nomination and the confirmation. The case was doubtless influential in hastening the passage by congress of the Tenure of office Act, of 1867.

In 1883, he sat in the circuit court of California on the hearing of the great debris case (9 Sawyer 441) and wrote a concurring opinion against the right of the hydraulic miners to deposit the debris of their mines in the streams of the state. Vast interests were at stake in this decision. The farmers of the Sacramento valley were arrayed against the miners of the mountains, which for a generation had produced millions of gold. But the production of this vast quantity of precious metal was slowly but surely bringing irretrievable ruin upon the farmers that were cultivating the rich alluvial soil that lay along the stream below. And while the decision against the miners struck a heavy blow at an important industry, it unquestionably was founded on justice and sound law; moreover it emphasized the fact, which is now coming to be clearly recognized, that the great and permanent wealth of California is in her fertile soil, rather than in her gold and silver. In 1885 Judge Deady again sat in the same court, in the famous case of Sharon *vs* Hill (11 Sawyer 290) and wrote the leading opinion therein, in support of the decision of the court, that the so-called marriage contract was a palpable forgery, invented to support the defendant in a predatory raid on Sharon's fortune. His masterly presentation of the facts of the case, and his unanswerable argument in support of his conclusion therefrom, broke the back, so to speak, of Sarah Althea's claim to be the wife of Sharon, and cast deserved odium upon this impudent attempt to dignify a "furtive intercourse" between a man and woman with the name of marriage.

During all this time, and since, he has held the district and circuit courts in Oregon, doing all the business in the former and nearly all in the latter.

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Many of the cases decided by him in these courts were important, both as to the amount at stake and the questions involved, particularly so in the land, railway, bankruptcy, and admiralty cases. The reports, 1 Deady and the 14 volumes of Sawyer, bear evidence of the prodigious industry, profound learning, and great ability of the district judge of Oregon during the last twenty-five years.

Herein are given the titles of a few of these, with a brief statement of the point decided.

And first his administration of the bankrupt act of 1867 was characterized by promptness and an intelligent appreciation of the subject and purpose of the act, and was altogether satisfactory to the business community. As a consequence the board of trade of Portland has always favored a renewal of the act. His exposition of the law, and the liabilities and rights of debtor and creditor thereunder, are contained in a long line of decisions which have been cited and followed all over the country.

In the *Canada*, (7 Saw., 175), he held against the weight of former rulings that a stevedore's labor was a maritime service, for which he had a lien on the ship, and this doctrine is now the prevailing one.

In ex parte Koehler, (11 Saw., 37 and 12 Saw., 446), he held that notwithstanding the Oregon act of 1885, regulating the transportation of passengers and property, a railway corporation has a vested right to collect and receive a reasonable compensation for the transportation of persons and property, which the legislature cannot impair or destroy; and for the purpose of retaining or securing business, but not otherwise, it may charge less for a long haul than a short one in the same direction. And in the latter case he held under section 4 of the inter-state commerce act, that under like conditions and circumstances a railway corporation may also charge less for a long haul than a short one, but not for the purpose of favoring one

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person or place at the expense or to the prejudice of another.

Gilmore *vs* the Northern Pacific railway company, (9 Saw., 558), is a pioneer case for the doctrine that all persons engaged in a common service are not "fellow servants," as was held in Priestly *vs* Fowler, (3 M. and W., 1), Murray *vs* Railway company, (1 McMull., 385), and Farwell *vs* Boston railway company, (4 Mt. 49), so that the common employer is not liable for an injury sustained by one servant through the negligence or misconduct of another. On the contrary Judge Deady held in this case, that these authorities were not applicable to the changed condition of modern industries, carried on by ideal and invisible masters called corporations, and that where a servant has authority to direct another, or to provide necessary material and appliances for his convenient and safe employment, he is so far the representative of the master, who is responsible in damages for any injury sustained by such other, by reason of the negligence or misconduct of such representative. Shortly afterward the supreme court of the United States, in C. and M. Ry. Co. *vs* Ross, (112 U. S., 389), announced the same doctrine.

Like other profound jurists, Judge Deady attaches great importance to the study of the principles of the common law. Indeed, the value of such study was strongly and ably presented in an address presented by him before the Portland law association in December 1866. The following extracts from that address may be read with profit by every citizen, whether he be a lawyer or engaged in other callings:

"I am aware that there is an impression abroad in the profession, as well as out of it, that the common law is among the things that were but are not, that it has become superseded and thrown in the background by the modern codes of procedure, and that time spent in the study or perusal of the old reports, or works of Coke, Comyn, Bacon, and even

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Blackstone, is time wasted. But let me assure you now that this is a grevious mistake. All judicial proceedings in the United States,—unless it be in the state of Louisiana,—however named or modified by systematic codes or mere desultory and miscellaneous statutes are based upon and constructed from the common law of England and America. They all presuppose an acquaintance with the general principles and axioms of the common law, and are impregnated and animated to speak by its spirit and genius.

"For the enforcement of every legal right and the redress of every injury thereto, of which the law takes cognizance, our modern code of procedure, like the common law, as declared by the statutes of Westminster 2d, gives every one an action on the case, without other name or signification. Yet, with our vision bounded by the narrow horizon of to-day or yesterday, or even a generation, we plume ourselves upon our superiority over our forefathers, and point to our law and other reforms as conclusive evidence of the fact, when in truth we are only groping our way back to the old paths. After this, let us abate our boasting, and say with Solomon, 'There is no new thing under the sun.'

"To the people who speak the English tongue, the common law is something more than a rule of action prescribed by the supreme power of the state, commanding what is right and forbidding what is wrong, but it is also the wisdom of their ancestors—the outgrowth of themselves, at once a tradition and a living inheritance. Its principles, maxims, and aphorisms enter into and give tone and color to our morals, politics, and literature. Whether we exist as a kingdom, commonwealth, or republic, it adapts itself to our condition, and furnishes at once the bulwark and the limit of our rights of person and property, and of government and subject or citizen. As the English race are now the only people who are colonizing the world, this language and law bids fair to encompass

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the earth and become the speech and rule of the world.

"Nowadays, it is the fashion in some quarters to sneer at the common law as a relic of feudalism and barbarism, and to point to the civil law as the proper source from whence to draw the jurisprudence of a highly civilized and refined people. But I caution you to beware of the spirit, and be not persuaded by it. . . . The laws of a people react upon them, and mould their character and opinions. The common law people—the English race, wherever they go, establish limited governments, with parliaments and juries; but the people of civil law—the Latin race, always come under some modification of the empire—in which the will of the prince, emperor, or chieftain is the supreme law.

"In so far then as we discard the fundamental principles of the common law, and adopt those of the civil, we are paving the way for the political and social condition of the Roman empire, in the age of the Cæsars—both good and bad. Probably this is the innate tendency and inevitable result of our republic, with its diversified and agglomerated population and ever widening territory.

"But be this as it may, the common law is the source and panoply of all those features of our system which distinguish us from the subjects of absolute governments, ancient or modern,—either by monarchs or majorities. It was made by freemen for freemen, and so long as you think these distinctions between it and the civil law worth preserving, you should cherish it in private and exalt it in public."

In a biography of Judge Deady, contained in a lately published history of Portland, edited by the editor of the *Oregonian*, Mr Harvey W. Scott, a resident of Oregon since 1852, there occurs the following passage:

"Any work professing to describe the representative men of the Pacific coast, would be very incom-

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plete which failed to present a sketch of the life and labors of the distinguished jurist whose name stands at the head of this article.

"Coming to Oregon in the flower of his early manhood, he has grown with the growth of his adopted state, and strengthened with her strength. His hand and mind are everywhere seen in her constitution, her laws, and her polity. Her material advancement has been greatly promoted by his efforts, and his name will ever remain indelibly impressed on her history."

Judge Deady's career has been essentially a judicial one, and it was fortunate for Oregon that a man of so much native strength and largeness of character should have become so important a factor in her history in the critical formative period. It is easy for the most casual observer to see how his strong personality has been directly instrumental in shaping the career of his adopted state. And while he already is seen to stand head and shoulders above his contemporaries, there can be no question but that he will become more and more prominent as the smaller men of his day fade away into oblivion with the lapse of time. While the judge is looked up to and respected by the community generally, his preëminent qualities have enforced the same homage from the legal fraternity. It has come to be recognized universally that he is a large man in the position he now occupies, and there can be no question but that he would be a larger man on the supreme bench of the United States.

The safeguards which he has largely been instrumental in throwing around life, liberty, and property, have done much to give Oregon its well deserved name of a law-abiding community, and to save her from the disgrace of the many infractions and overturnings of all law which have occurred in too many of the newer sections of the community. The personal dignity which he has always maintained on the bench, and the observance of the formalities of the court which he has always insisted upon, has had its influence too,

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in deeply grounding a respect for law in the hearts of the people.

Many questions of the gravest importance have come before Judge Deady, in the course of his long career, which he has been forced to study without the help of precedent and to decide without the aid of authority. But with characteristic courage and self-reliance, he has applied himself to the solution of these problems, and his decisions have been based on the soundest legal principles and justice. The settlement of suits arising under the donation land laws became of the gravest importance, from the magnitude of the interests involved in the city of Portland and elsewhere; but when he rendered his decisions it placed these questions permanently at rest, although in reaching his final judgment he had to consider many points that came up for the first time in the history of the world. New principles and new laws also had to be considered by his fertile brain in connection with the grants of the public domain to the state, to railway corporations, and to settlers, under the donation, preëmption, and homestead act, and the right to cut and take timber therefrom.

When political demagogues, relying on the popular prejudice against the Chinese, have undertaken to deprive them of their treaty rights and the equal protection of the laws, the judge, unmoved by partisan clamor, has enforced the law in their favor, regardless of consequences.

In the spring of 1886, a general election being near at hand, the people calling themselves anti-Chinese held meetings in various places in Oregon, and resolved that the Chinese must go. Encouraged and set on by these incendiary proceedings, a midnight mob captured the Chinese working in the woolen factory in Oregon city, and after relieving them of their money, sent them off in a boat to Portland. Soon afterward Judge Deady, in his charge to the grand jury in the United States district court, called their attention

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to this outrage, as a result of which, a number of the guilty parties were indicted and arrested. In the course of the charge he said:

"An evil spirit is abroad in the land, not only here but everywhere. It tramples down the law of the country and fosters riot and anarchy. Now it is riding on the back of labor, and the foolish Issachar couches down to the burden and becomes its servant.

"Lawless and irresponsible associations of persons are forming all over the country, claiming the right to impose their opinions upon others, and to dictate for whom they shall work, and whom they shall hire, from whom they shall buy, and to whom they shall sell, and for what price or compensation. In these associations the most audacious and unscrupulous naturally come to the front, and for the time being control their conduct. Freedom, law, and order are so far subverted, and a tyranny is set up in our midst most gross and galling.

"Nothing like it has afflicted the world since the middle ages, when the lawless barons and their brutal followers desolated Europe with their private wars and predatory raids, until the husbandman was driven from his ravaged fields, and the artisan from his pillaged shop, and the fair land became a waste.

"The dominant motive of the movement is some form of selfishness, and its tendency is backward to barbarism—the rule of the strongest, guided by no other or better precept than this: 'Might makes right.'

"This is not the time nor place to inquire into the cause of this condition of society. It may be the natural outcome of the modern political economy, which, assuming that the conflict of private interests will produce economic order and right, has reduced the relation between capital and labor to the mere matter of supply and demand, and limited the duty and obligation of the one to the other, to the payment of the minimum of wages for the maximum of

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labor on the one hand, and the getting the maximum of wages for the minimum of labor on the other.

"But whatever the cause, I have faith that the teaching of experience and the good sense and love of justice of the people of Oregon will find a remedy for the evil in time. And in the mean while it behooves those of us into whose hands the administration of the law and the conservation of the public peace is confided, to do what we can, wisely but firmly, to prevent this evil spirit from destroying the material resources of the country, and making any improvement in the condition of society, in this respect, still more difficult and doubtful."

In his address to the Pioneers in 1876, there is a happy mingling of history and philosophy. In considering the comparative merits of the adverse claims of Great Britain and the United States to the country known as Oregon, founded on discovery, he said:

"From the beginning the right to the country was to depend upon the successful occupation of it. In the race for possession Great Britain was represented by the fur companies, the United States by the eastern trader and missionary, and particularly by the western farmer and woodsman. The fur companies desired to occupy the country as a trapping ground for the fur-bearing animals.

"On the other hand, the American settler was always animated, often it may have been unconsciously, with the heroic thought that he was permanently engaged in reclaiming the wilderness—building a home, founding an American state, and extending the area of liberty. He had visions, however dimly seen, that he was here to do for this country what his ancestors had done for savage England centuries before—to plant a community which in due time should grow and ripen into one of the great sisterhood of Anglo-American states, wherein the

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language of the Bible, Shakespeare, and Milton should be spoken by millions then unborn, and the law of magna charta and Westminster hall be the bulwark of liberty and the buttress of order for generations to come.

"Under these circumstances, it is not to be wondered at that this British army of occupation failed to take deep root in the soil and hold the country as against the Oregon pioneer."

In conclusion and addressing the Pioneers personally, he said:

"Yes, worthy Pioneers, to you, whom heaven has kindly granted to see this day, and your absent but not forgotten brethren and friends, who made a pathway to the country with their dust, or have since given their lives for its defence, or fallen asleep in its valleys, are we chiefly indebted for this grand and beneficent result. By your great endeavors an empire in limits has been added to the jurisdiction of the United States, and to-day the sun in his journey across the heavens shines down upon a continuous union of American states from the Atlantic to the Pacific. Verily you have your reward, and they who come after you shall rise up and do you honor."

In his interesting address on towns and cities, delivered in 1886, at the commencement of the University of Oregon, he showed how the failure of municipal government in the United States was owing to the prevalence at the polls of the vagrant and non-taxpaying element. He said:

"The drift of any municipal administration in which those who pay no taxes, collect and expend the revenue, is to waste and corruption. For a time under favorable conditions, this result may be prevented or delayed. And now and then the taxpayers, aroused by the exposure of some gross fraud or extravagance, may combine and take the management into their own hands.

"But the good effect of these spasms of public

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virtue are not permanent. The cause of the evil—the vicious and irresponsible vote—is left untouched. The leisure class, the men who from defective organization or training are unfitted for or indisposed to labor in the ordinary vocations of life, return to the work, and are soon battling away again, night and day, under and above ground, in the press, the primaries, and at the polls, for the lost places. The busy people go back to their private affairs and are soon absorbed in them, and ere long things are as they were before. Each failure of these occasional efforts at reform to accomplish any abiding result, diminishes the chance of their being repeated. Men tire of rolling the municipal stone up hill, only to see it, as soon as their backs are turned, go down again. . . .

"Learning, without honest and good government, is a mere whitened sepulchre. And such government, while our towns and cities, the nerve centers of the body politic, are under the control of the ignorance, poverty, and vice that inhabit them, or of those who use and abuse them, is simply impossible.

"The danger is no longer indefinite or in the distance. The virus of municipal corruption and mismanagement is steadily extending to the affairs of state and nation. Political parties systematically use the places and pickings in municipal affairs as a sort of feeding and training ground for their workers and strikers in general politics. From there, in time, they graduate into state and national politics, and carry with them the morals and tactics of the well-drilled ward club.

"Nothing can check this movement but a reform in municipal politics, and this can only be done by eliminating the irresponsible voter from municipal suffrage. We have seen that the indebtedness of the towns and cities of the United States has increased during the last decade, a period of peace and comparative prosperity, one hundred fold. Probably the greater portion of this went to the support of politics,

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municipal bosses, and their henchmen, for which purpose they were primarily, though not professedly, incurred.

"The robber baron of the middle ages, with his devoted and dangerous following of armed retainers, has passed away. We only know of them from the pages of history and romance. Civilization is no longer in danger from them. But human nature is much the same under all circumstances. In our large cities they have reappeared in the form of a vulgar and rapacious plutocracy and an ignorant and vicious rabble, which together menace the existence of a republican form of government. Though far apart socially, in politics, so called, they are natural and effective allies. With the cheaply purchased votes of the latter, the gilded bullies of the former rob the wealth and crush the industries of the cities as ruthlessly as ever did their lawless, mail-clad prototypes, the Front de Boeufs and De la Marks of centuries ago."

On November 4, 1873, in the charge to the grand jury of the United States district court of Oregon, upon the subject of bribery at elections, he said:

"The success of a government based upon universal suffrage and frequent elections, pre-supposes that the elector will give his vote upon considerations of public policy, and the fitness of the candidate for the office to be filled, and not otherwise.

"When this condition of things ceases to be the rule, and votes are given or withheld by reason of 'force, threat, menace, intimidation, bribery, reward, or offer or promise thereof,' the days of the republic are numbered, and it will not be long ere it dies in its own stench.

"A representative government, elected and sustained by the free and unpurchased votes of honest and intelligent citizens, is probably the most desirable state of civil society known to man; while on the other hand, such a government, resting upon and

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reflecting the result of corrupt and dishonest elections, is an organized anarchy, more intolerable and unjust than any other. It is the triumph of vice over virtue—the means by which evil men bear sway.

"The use of money in elections, particularly in the large towns and cities, is fast becoming a dangerous evil. If not prevented, our elections will in effect soon become what the election for an emperor was in the decline of Rome—a sale of the empire by the mercenaries of the pretorian guard to the highest bidder.

"The use of money in elections, besides being in nine cases out of ten radically wrong and corrupt, imposes in the end a heavy and unjust tax upon the property and industry of the country.

"By one indirection or another, through the acts and influence of those who are elected by this money, the public are compelled to return it with interest—often an hundred fold—to the persons who furnished it."

In the fall of 1864, the legislature of Oregon had a resolution before it concerning General Russell, who had served in Oregon, and just bravely met his death with Sheridan in the Shenandoah valley. The resolution was pitched in a high key, and some prosy, cynical wags in and out of the house were disposed to sneer and laugh it down. At the request of the mover, Judge Deady dashed off an article in support of the resolution, the publication of which checked the opposition and secured its passage. It may be found at length in *Schuck's Representative Men of the Pacific* (107). As a specimen of eloquent off-hand composition we quote a few lines:

"The resolution, as befits the occasion, has the ring of the trumpet, and a touch of true poetic fire. When a generous people desire 'to honor the patriot dead,' or 'to encourage their gallant living,' their

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language should rise above the prosy platitudes of a constable's writ or an inventory of goods and chattels.

"If you would have men die for their country, remember those who thus die. Let the memorial of the brave departed be such as to warm the hearts and elevate the aspirations of those who come after them. The dream of obtaining a monument among the illustrious dead of Westminster abbey has done more to maintain the dominion, prowess, and prosperity of England, than all the gold of her commerce, twice told and repeated.

"Thus Rome deified her dead and inspired the living, until, with

> —— brave Horatius,
> The captain of the gate,

a Roman was ever ready to sacrifice himself for his country, exclaiming:

> How can a man die better
> Than by facing fearful odds,
> For the ashes of his fathers,
> And the temples of his Gods?

In the course of a fourth of July oration, delivered at Portland in 1885, he paid the following tribute to Washington and Hamilton:

"The records of Hamilton's labors and achievements will ever remain a monument of his comprehensive patriotism, his freedom from sectional prejudices, and his matchless ability as a statesman and jurist. No celebration of this day, no commemoration of these events, is just or complete without the grateful mention and remembrance of these two names, Washington and Hamilton, the two men who, more than any others, not only achieved the independence of the colonies, but saved them from subsequent anarchy and discord—gave them a constitutional and free government, equal to the exigencies of peace or war, and made them in fact as well as name, the United States of America, one and indivisible, let us hope, now and forever."

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And in an address delivered at the same place on the centennial of Washington's inauguration, he said:

"I have thus endeavored in the short time at my disposal, to give an estimate of Washington as a soldier, statesman, and patriot, derived from his acts and declarations, and the opinions of those best qualified to speak of him. He is, in my judgment, by far the grandest figure in American history; and I doubt if he has a superior in the modern world. Other men may have exceeded him in some particular, but in the general average, none. He was an all around, well balanced, great man, equal to any emergency and capable of rising to any occasion.

"His name is inscribed high up on the roll of the few great worthies of the world, never to be dimmed or displaced.

> The winged years, that winnow praise and blame,
> Blow many names out; they but fan to flame
> The self-renewing splendors of his name.

"Few of us stop to think, or are even aware, of the incalculable benefit to this or any people, of having such a life woven into their early history, as an example and incentive to good and noble deeds, from pure and exalted motives, in both public and private life.

On the death of Chief Justice Waite, in response to resolutions by the bar of the United States circuit court, Judge Deady said:

"The death of the chief justice of the supreme court of the United States is felt throughout the length and breadth of the land. A vacancy in this exalted tribunal affects the interest of the whole community. A century ago, the men who achieved the independence of the colonies, assembled in Philadelphia, with George Washington at their head, to lay the foundation of a new government, whereby the liberty and independence won by their swords might be defined and preserved by the authority and sanction

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of law. As an essential part of this political fabric they provided for a supreme court with power to act as a final arbiter between the 'New Nation' and its constituent parts—the several states and the people thereof.

"Fresh from the learning and example of the great lawyers and statesmen of the convention parliament, who a century before under the lead of Somers had secured to Great Britain a judiciary whose tenure of office no longer depended on the interest or caprice of the crown, they placed this court of final resort above the vicissitudes of party and the clamor of faction, by providing in the constitution for the independence and permanency of its judges. And the result has verified their expectations and shown the wisdom of their actions. The court has proven itself the keystone of the arch which binds the union together—the very acropolis of the constitution."

In a Fourth of July address delivered at Vancouver in 1889, he said:

"In the constitution of Washington, by all means make the term of the judicial officer not less than ten years, and the salary not less than $5,000, and we may be shamed into following your good example. A learned, honest, and independent judiciary is the corner-stone of a good social fabric. But ordinarily a judge cannot be honest who is not independent, and the judge is not independent who is needy, or who, on account of the shortness of his term, is tempted to look around and count heads, before he is warm in his seat, with a view to reëlection. Limit the suffrage to citizens of the United States. There are plenty of people in the country to do the voting without including unnaturalized foreigners in the list, who have simply declared their intentions and may never go any farther. Provide that a majority of a jury may find a verdict in all cases, or at least do not tie the hands of the legislature so that it can-

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not be done hereafter. This is a very important matter. The constitution of the jury must be reformed in this particular, if this institution is not to become an impediment to the administration of justice. All those who thrive by the defence of criminals, and consider a hung jury, even if by one to eleven, next thing to an acquittal, will be found generally opposing this reform. It could have no better commendation to the people at large."

In responding to the toast, The State of Oregon, at the Queen's birthday dinner, in Portland, 1886, he said:

"Oregon did not grow up leaning on the arm of an elder sister, or become organized as an annex to a neighboring state, like the members of the union north and west of the Ohio river. It was not formed by the mere gradual and unpremeditated overflow of population from one degree of longitude to another, as oil spreads over paper. But, like Virginia and Massachusetts and other colonies on the Atlantic seaboard founded two centuries earlier, it was from the beginning a distinct and separate settlement of self-governing and directing people. The pioneers of the Pacific, like those of the Atlantic, were separated from their point of migration by thousands of miles of trackless waste.

"Indeed, the state of Oregon was more autonomous in its origin and early growth than any state within the limits of the union. The Atlantic colonies, save perhaps the small matter of the Plymouth rock congregation, who were soon absorbed in the Massachusetts bay colony, were planted and watered by some powerful company or proprietor in England, and largely directed and aided thereby.

"But the Oregon colony was emphatically a popular, political movement, conducted by private persons without any recognized head or concerted plan. It was really one of those singular movements of the

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human race in which numbers of people, without preconcert or purpose, are moved by some common controlling impulse, to transplant themselves to some unknown and remote region; and having done so proceed at once, as by a political habit or instinct, to unite together in a civil society and found a state, upon whose escutcheon they did and might well inscribe, *Alis volat propriis.*

In responding to the toast—The United States—on a similar occasion in 1884, he said:

"Go back with me, if you will, to the period between the 13th and 17th centuries, the most fruitful period in the world's history. Europe had awakened from the deep sleep or long incubation of the middle ages. The first important event was the invention of gunpowder. Then the weapon of warfare was changed from the sword and spear of the mailed knight to the firelock of the common soldier. Next followed the art of printing, by which the thought of the few was diffused throughout the world, and made the property of the many. This was naturally followed by the revival of learning; and then came the natural climax and crown of the movement—the Reformation. Then thought was made free, and man was permitted to think for himself. Society was stirred to its inmost depths. Old customs were overthrown, and old ideas were everywhere confronted and assailed by new.

"It seems providential that just at this time a new world should be discovered, which afforded a refuge and elbow room for all the new thoughts and eccentricities of the old world. At the very moment of this seething turmoil and intellectual ferment, which poets and painters are pleased to call the renaissance, the new world was prepared for this European overflow, which came in groups and settlements of pilgrims, independents, puritans, baptists, episcopalians, quakers, Roman catholics, presbyterians, Lutherans, and Moravians, together with many shades of political opinion, out of which there came in due time the

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United States, the free American citizen, and religious toleration."

On December 7, 1883, Judge Deady published an article in the *Morning Oregonian*, which is preserved in the transactions of the Pioneer Association of that year. In the course of it occurs the following account of the preliminary peace talk between the Rogue river Indians and the whites, on Sunday, September 4, 1853, soon after the battle of Evans or Battle creek, on the north side of Rogue river, which ended in a truce between the two leaders—Indian Joseph and Joseph Lane.

"The scene of the famous 'peace talk' between Joseph Lane and Indian Joseph—the two men who had so lately met in mortal combat—was worthy of the pen of Sir Walter Scott and the pencil of Salvator Rosa. It was on a narrow bench of a long, gently sloping hill lying over against the noted bluff called Table rock. The ground was thinly covered with majestic old pines and rugged oaks, with here and there a clump of green oak bushes. About a half mile above the bright mountain stream that threaded the narrow valley below sat the two chiefs in council. Lane was in fatigue dress, the arm which was wounded at Buena Vista being in a sling, from the effects of a fresh wound received at Battle creek. Indian Joseph, tall, grave, and self-possessed, wore a long black robe or cassock over his ordinary dress. By his side sat Mary, his favorite child and faithful companion, then a comparatively handsome young woman, as yet unstained with the vices of civilization. Around these sat on the grass Captain A. J. Smith, who had just arrived from Port Orford with his company of the first dragoons, Captain Alvord, then engaged in the construction of a military road through the Umpqua cañon, and since paymaster-general of the U. S. A., Colonel Bill Martin of Umpqua, Colonel John E. Ross, of Jacksonville,

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Captain now General John F. Miller, myself, and a few others.

"A short distance above us on the hillside were some hundreds of dusky warriors in fighting gear, reclining quietly on the ground. The day was beautiful. To the east of us rose abruptly Table rock, and at its base stood Smith's dragoons, waiting anxiously with hand on horse the issue of this attempt to make peace without their aid. After a proposition was discussed between the two chiefs, the Indian would rise up and communicate the matter to a huge warrior, who reclined, unclad, at the foot of a tree quite near us. Then the latter rose up and communicated the result to the host above him, and they belabored it back and forth with many voices. Then the warrior transmitted the thought of the multitude back to his chief, and so the discussion went on, until an understanding was finally reached. Then we separated, the Indians going back to their mountain retreat, and the whites to their camp on the river.

"That evening I rode up to Jacksonville, through what I thought was the most picturesque valley I ever saw. The next morning I opened in due form, the United States district court for the county of Jackson — the first court that was ever held in Oregon south of the Umpqua — and the mandate of the law superseded the stroke of the sword."

The spirit of justice, which is the foundation of all law worthy of the name, pervades Judge Deady's work. Although well acquainted with forms and precedents from the early days of the common law, he never willingly sacrifices justice to either, nor confounds the kernel of truth with the husk of appearance.

Yet he does not assume the right to disregard a settled rule of law, to placate a public opinion which for the time being is arrayed against its enforcement in a particular case.

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Knowing this, litigants and attorneys who rely on the law, are always anxious to get their cases before him, where they are sure of a decision, the result of industry, learning, integrity, and judgment. Such a standing and reputation has only been attained by continuous and devoted labor, which his iron constitution has enabled him to endure in the last thirty and more years. The reports are full of his decisions that are of permanent general value—especially to the jurisprudence of the Pacific coast.

It is one of the admirable characteristics of Judge Deady that he always tries to keep himself in touch with the people. He makes time to mingle with them, notwithstanding the great and unremitting pressure of his judicial duties. He goes out into the country or visits the seaside at least once a year. Thus he keeps abreast and in full sympathy with the current thought, and is able to judge of the force of any turn of public opinion, and to see how deep or shallow any prejudice may be. By this habit of life he has gained a vast fund of practical knowledge, and has made a very wide circle of acquaintances in all walks of life. He has become familiar with all the professions. He knows the life of the farmer, and understands the tools of the mechanic. If in any case a point comes up in regard to some mechanical device about which he is in doubt, he has the machine brought into court, or will go to the pains of visiting the shop where it may be. More than this, he will, if necessary, make a considerable journey solely for the purpose of seeing some particular gearing or machinery in operation. Thus he has become almost an expert on a vast number of practical subjects, and has accumulated a great store of practical knowledge which can scarcely be equalled.

One quality that pervades all his decisions is his great moral courage; indeed his native strength in this is so great that he seems unconscious at times that he is moving directly counter to the general

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prejudices of the hour. No fear of popular resentment has ever bent him from the direct line of justice, and no allurements have been strong enough to cajole him into doing anything of which his conscience did not approve. He is ever ready to protect the poor and helpless against the encroachments of a powerful corporation, and yet, on the other hand, a corporation is sure of receiving full justice from him. It would seem as though the judge had taken well to heart the wisdom of Plato, and that he has planted in the valleys and mountains of Oregon that love of law, that supreme insight into the all importance of the state, and that devotion to truth which are the marked characteristics of the greatest of Grecian philosophers. And that he impressed these great truths upon the young commonwealth by the force of manly example and timely precept is one of the most fortunate circumstances in the history of Oregon.

Although Judge Deady's great life-work has been done upon the bench, he is too large a man, and his interest in the true welfare of the community is too deep-seated, to permit him to confine himself exclusively to the calling that he graces so well. His sympathies are with every movement that tends to the improvement of the community as a whole. Thus it came perfectly natural to him to give active assistance to the organization of the Library Association of Portland in 1864, and that institution to-day,—standing as it does, as one of the best organized on the Pacific coast, owes much of its usefulness to the pains which he has taken with it. Its management from the first has been beyond criticism. He has been its acting president for over twenty years, and has solicited and obtained most of the funds that go to make up its endowment of nearly $150,000. A large portion of the books upon the shelves were selected by him, and one can imagine how congenial such a task as this must be to a man of his cultivated and scholarly tastes. Regularly on Saturday afternoon of each

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week he may be seen in the library rooms, in consultation with Mr Oxer, the librarian, concerning the condition of the institution, giving directions and making suggestions concerning the purchase of new books, and the like; so that if he is wanted for any purpose, between 2 and 4 P. M. of that day, people go to the library rooms to find him.

The cause of higher education has found in Judge Deady an earnest and judicious advocate. In 1876 he was appointed a regent of the university of Oregon, which had just then been located at Eugene. He has served in this capacity, and also as president of the board ever since. Several commencement addresses have been delivered by him, and the reader of these is struck at once by the breadth of wisdom, the depth of learning, and the thorough familiarity with all the leading authors which they present. Addresses so polished and learned could not fail to have a great and beneficial influence on the young graduates. The pearls of Montaigne, Middleton, and Burke glisten and shine on the thread of his discourse along with the gems of Bacon, Franklin, and Dr Johnson. Yet he did not hesitate to give a touch of criticism, when it seemed necessary, to point his hearers to the highest standard. "The aim of the scholar," he says, "should be far above that of the low utilitarian philosophy of Franklin, which has borne its legitimate fruit in the worship of the creature instead of the creator, and the substitution of the sensual test—Will it pay? for the spiritual one—Is it right? We should remember that it is better to know the meaning of the stars than to be able to count them—that it is of more importance to be able to answer the old and ever recurring question—*Quid est veritas?*—than to have invented a sauce or jumping-jack, or discovered a mine or the source of the Nile. True greatness is more or less moral, and is only reached by living under the constant influence of a lofty ideal, even though it may never be realized."

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Whether with light and graceful fancy he discoursed to the students on the subject of manners, reminding them that William of Wykeham, lord chancellor of England, chose for his motto: "Manners maketh Man," and that Middleton said: "Virtue itself offends when coupled with forbidding manners," or showed with reason and logic that the higher aim of life is *to be*, rather than *to have*, or discussed the practical problem of municipal government, his words were weighted with wisdom and strong common sense.

Judge Deady has not striven for distinction in the field of oratory. His position on the bench has precluded it. But with his poetic fancy and love of the sublime and beautiful, in nature and art, there can be no doubt that had he remained at the bar he would have been distinguished as a public speaker.

His addresses and lectures are not the flimsy productions that depend for their success upon the transient enthusiasm of the moment of delivery; their value and importance lie in the great truths, forcibly and aptly told, which they bring home to the auditors. Like the great classic orations, they are best understood and most highly prized after they have been quietly read and thought upon. The wide knowledge of history, the deep and philosophical insight into political growth and organization, and the clear perception of the needs of society make them a rich mine. The quality that most impresses one is the broad comprehensiveness with which he takes up his subject. His view covers the entire field, and he brings out in true proportion the essential facts which enter into the subject that he is speaking upon. And thus it is, that his words sink into the memory and abide there, as did the address of Lincoln at Gettysburg, which completely overshadowed the brilliant effort of William Everett.

Judge Deady grew up a democrat. He first took an interest in politics in favor of the annexation of Texas, in 1844. He says:

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"By the time I was thirty years of age I had pretty thoroughly studied the constitution and political history of the United States for myself. Among others I had read Jefferson's Works, Webster's and Calhoun's speeches, Washington's messages, and Hamilton's reports, the report of Burr's trial and Chase's impeachment, and Marshal's life of Washington, and became on general principles, what might be called a federalist—a believer in the doctrine that the constitution created a government for a nation, supreme in its sphere, and the ultimate judge of its own powers, and not a mere compact between independent or sovereign states to be terminated at the will and pleasure of either of them. And therefore, when the southern states undertook to withdraw from the union, I considered they were engaged in a rebellion against the lawful authority of the national government, which the latter had a right to suppress by any of the means known to civilized warfare. And this, notwithstanding my sympathies had been with the southern people on account of the unfriendly, irritating, and ceaseless attacks by many northern people and some states on the composition of southern society, and particularly negro slavery.

"Since the commencement of the war, I have generally acted with the republican party, as the one that best represented my idea of the supremacy of the national government, the resumption of specie payments, a sound currency, the payment of the national debt in gold coin, the reform of the civil service, the supremacy of the law, and the restraint and subordination, as far as practicable, of the vices and dangerous pursuits of society, to the well-being thereof. In the case of administrative officers, I generally vote for the best man and I might be called something of a mugwump."

Judge Deady's parents were Roman catholics, and he was nurtured in that faith when young. After leaving home in 1841, he became acquainted with protestant ideas and forms of worship, and learned to

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think for himself. His professional and general reading predisposed him to English precedents in politics and religion. Mrs Deady, on the other hand, was reared a presbyterian. On going to Portland to live they took refuge in the episcopal church, of which the judge has been a vestryman for many years. He has also taken an interest in the charitable and educational institutions, in Portland, under the control of that church, such as the Good Samaritan hospital, the Bishop Scott academy, and St Helen's hall.

Besides a great number of oral judgments, and trial of cases involving large amounts, or grave criminal charges, Judge Deady has written about 350 opinions since his advent of the bench, involving many important and interesting questions affecting the rule of the common law, or the proper construction of the state and federal statutes and the constitution of the United States and the state. These opinions are recorded in *Deady's Reports* and *Sawyer's Reports*, from volume 1 to volume 14 inclusive.

His personal appearance is portrayed in the following description given by one well qualified to do so:

"Judge Deady has a fine physical presence, so that he fills the eye, as one fitted to pronounce and to enforce. Time, in whitening his once auburn beard and the locks that curl about his head, has added the external suggestions of the sage. Six feet two inches in height, and weighing about two hundred and thirty pounds, he is in due proportion, and looks neither too heavy nor too slim. His eyes are bluish-gray, with a twinkle at the corners which betrays amusement, even at times when in deference to judicial dignity the face remains impassive—a noble face, capable of quickly passing from this expression to a frown of the brow and an angry light in the eyes. His brow is broad and massive; the back of the head broader, and well rounded. To speak by the hatter, he has a 7½ head. The nose is rather prominent, straight and well bridged, neither bony nor

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fleshy. A strong mouth, rather large, and suggestive of that sensuous (not sensual) quality almost invariably accompanying good intellectual power,—i. e., an appreciation of the things of the senses, whether a picture, a beauty, or a fat capon and a bottle of burgundy. His hands and feet are rather small for his size and weight, but, in common with the rest of his frame, suggesting bodily power. As he rises from the surf in his favorite pastime of sea-bathing, with dripping locks and beard, and great proportions, he suggests the Neptune of the Greek coins and gems. And, passing from his mere bodily appearance to a better characteristic, in connection with his office and his nature, it may be said he has a kindly sympathy with every young and struggling lawyer; and to each he extends what aid he can by instruction, advice, and that more positive assistance which lies within his power to distribute from time to time."

In conclusion we heartily adopt the saying of his biographer in the *History of Portland:*

"His aims are noble and his methods just."

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CHAPTER XX.

GOVERNMENT AFFAIRS IN OREGON.

RELIGIOUS SECTS AS COLONISTS—METHODISTS, PRESBYTERIANS, AND CATHOLICS—JOHN MCLOUGHLIN AND THE HUDSON'S BAY COMPANY—THE BOUNDARY QUESTION—MISSIONARIES AS MERCHANTS—LAND CLAIMS—INDIAN TROUBLES—MILITARY MATTERS—PROVISIONAL GOVERNMENT—POLITICS—JUDICIAL AFFAIRS—OREGON AS A TERRITORY AND AS A STATE—PROMINENT OFFICIALS.

PIETY, patriotism, and jealousy, presently blending and bowing before avarice, were the primary factors in the colonization and occupation of the Oregon country south of the 49th parallel. The piety was, for the most part, of the methodist persuasion, intent on converting the savages to the same thinking; the patriotism and jealousy took the form of a strong desire for the Americanization of Oregon, so that the English might not get control of the country; the avarice was of a somewhat mild form, being simply a greater desire for lands and other temporal benefits than for purely spiritual blessings.

Following the trading adventures to Oregon of Kelley and Wyeth, came four Flathead chiefs to St. Louis, asking for missionaries to their benighted land. Two personages presently appeared before the methodist board and offered their services. They were Jason Lee and his nephew Daniel Lee, the former having been engaged in similar labors in the British provinces. Their offer was accepted; and Jason, made a member of the methodist conference, was ordained an elder. This was in 1833.

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Jason Lee was from Stanstead, Canada, and at that time about thirty years of age. He was tall and powerfully built, with an iron constitution and unblemished manhood. Sincere and sound in his principles after the manner of his enlightenment; frank and affable in his intercourse with men, he inspired respect and grew in the confidence of his associates. If he lacked somewhat in refinement, it may be said that his brusque straight-forwardness was but simple honesty, unalloyed with clerical cant.

His nephew was not cast in the same mould. Thin and bony in form, he presented a strong contrast to the powerful frame of Jason, while in mental capabilities a corresponding difference existed between them. Though a man in stature, Daniel was a child in mind and manners; but of his lack of knowledge, especially that of the world, he lived in happy unconsciousness.

On October 10, 1833, a missionary meeting was held in New York to arrange for the early departure of the volunteers, and by the end of November everything was in readiness, $3,000 having been voted by the board to defray the expenses of their outfit. At this juncture Nathaniel J. Wyeth arrived at Boston, having returned from an unsuccessful attempt to establish a trading-post on the Columbia river. Wyeth was of Cambridge, Massachusetts—an enterprising young man of ardent temperament, who, excited by the writings of Hall J. Kelley, conceived the design of journeying overland and planting an American colony in Oregon.

Leaving New York in March 1834, the Lees proceeded westward, accompanied by three associates—Cyrus Shephard of Lynn, Massachusetts, Philip L. Edwards, a native of Kentucky, and Courtney M. Walker of Richmond, Missouri, who had been engaged to assist for one year in founding the mission. At Independence, their rendezvous, they found Wyeth, and on April 28th the expedition, numbering in all seventy men, started on its journey. On Sep-

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tember 16th the missionary party arrived at Fort Vancouver, Jason Lee having gone in advance of the others.

The initiatory steps toward settlement had already been taken in the Willamette valley by French Canadians, who, when the terms of their contracts with the Hudson's Bay company had expired, were allowed to settle on the choice lands of the valley, and thither went the Lees. The place was known as French prairie, a lovely region, whose grassy meadows were watered by numerous streams, and dotted with groves of oak and fir, cottonwood and white maple. And here, at its southern extremity, the methodist mission was established, Lee having been so advised by McLoughlin, chief in these parts of the Hudson's Bay company. Every Sunday a sermon was preached at the house of Joseph Gervais, where, also, a sabbath-school was opened, but no progress was made in converting the natives.

Late in October 1834 Kelley and Ewing Young arrived with a party from California. Born at Gilmanton, New Hampshire, in 1879, Kelley had graduated at Middlebury, Connecticut, and afterward at Harvard university. As early as 1815 he began his agitation of the Oregon question, and in 1824 gave himself wholly up to the work. By gathering information and spreading it among the people he did more than any other man to keep alive in the public mind a deep feeling of interest in Oregon. He was an enthusiast in the matter, making maps, forming plans, and petitioning congress for aid. He organized a land expedition, which was to have started in 1828, but was afterward abandoned; he next attempted to form one to proceed by water in 1832, but again he failed. Kelley then determined at all hazards to visit Oregon, and with a few companions set forth in 1833, selecting the circuitous route through Mexico. At Vera Cruz, whither he arrived alone, his party having

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separated from him, he was robbed, and suffered many hardships, but was not deterred from his design. Reaching California, he became acquainted at San Diego with Ewing Young, a cabinet-maker by trade, but trapper, hunter, and adventurer by preference, and together they proceeded to Oregon. Young was a native of Knox county, Tennessee, and a man of intelligence, possessed of great nerve-power, a grand physique, and that restless disposition which impels men to adventure.

Kelley and Jason Lee met in conference several times, but the latter had plans of his own, and Kelley was soon left to brood in solitude over the failure of his project for forming an ideal American settlement. In 1835 he returned to Boston, where he published a pamphlet setting forth the hardships and injustice inflicted on American settlers by the exclusiveness of the British fur company, which put in force most arbitrary measures to drive away those who would not submit to its domination.

In view of these charges, the government instructed William A. Slacum, connected with the naval service, to visit Oregon, ascertain the truth of Kelley's story, and collect all political, physical, and geopraphical information that might prove useful. Slacum arrived in December 1836, and reached Fort Vancouver January 2, 1837, where he was hospitably received. McLoughlin was informed by his visitor that he was a member of a private expedition in search of information respecting the country But the chief-factor was not deceived ; he recognized in the man an agent of the United States government, and knew that all that was seen and heard would be reported to it. He deemed it expedient, therefore, to make a full statement in regard to all matters at issue. After visiting the mission and settlers in the Willamette valley, Slacum took his departnre, while Young attempted to establish a distillery to prevent which the missionaries organized a temperance society.

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In the work of occupying Oregon the methodists were followed by the presbyterians, of whom Samuel Parker of Ithaca, New York, and Marcus Whitman were leaders. Parker was a man of intelligence and refinement, of somewhat precise and solemn deportment, but sincere and courageous. He was older than Whitman, and of a lively disposition, outspoken, and of easy manners. Prompt, energetic, and brave, yet kind withal, he was well fitted to be the pioneer of missionary enterprise, his sinewy frame and vigorous constitution rendering him capable of enduring hardships. He was a native of Rushville, New York.

Parker made a journey to Fort Vancouver and the Nez Percé country, and returned east. Whitman, in company with H. H. Spaulding, a plain, practical man, but full of zeal, both of them missionaries, and accompanied by their wives, proceeded in 1836 to Waiilatpu, Whitman taking up his residence in a house which Parker had built, while Spaulding located himself in the Lapwai valley. Among other missionaries entering early the Oregon territory were W. H. Gray, Elkinah Walker, and Cushing C. Eells.

The Willamette mission of the methodists was reënforced in 1837 by a party of eight from Boston, conspicuous among whom was Elijah White, doctor, just past thirty years of age, of a sight, elastic frame, and slippery tongue and conscience. Next was Alanson Beers, a blacksmith, a stout, strong man of dark complexion, homely disposition, and rigid honesty. In marked contrast to him was W. H. Willson, ship-carpenter, a tall, well-built man, of cheerful and affectionate disposition, kind to children and animals, ever ready to entertain his listeners with strange sea-stories, some parts of which were true. Other pioneers were Anna Maria Pitman, who married Jason Lee, a tall, dark-hued woman, with some poetic talent, fervently pious and enthusiastic; Susan Downing, who married Cyrus Shepard; and Miss Johnson, a pure-minded, estimable damsel, zealously devoted to

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her duty. Charles J. Roe was also married to Nancy McKay. These were the first marriages solemnized in the Willamette valley by church rites. Very shortly after this event a second reënforcement arrived from Boston, and the population at the Willamette mission now numbered sixty persons, nearly equally divided between natives and white settlers. In March 1838 Daniel Lee with H. K. W. Perkins, one of the last comers, established a mission near the Dalles, at a point on which Gray had endeavored to persuade Whitman to plant a presbyterian mission.

Jason Lee must now be regarded more as an American colonizer than as a missionary. He had been unsuccessful in his efforts to gather the savages into his fold, and like a sensible man, he turned his attention to business. He conceived the idea of founding a methodist state, whatever that may be, and in 1837–8 went east to obtain men and means. He gave lectures on Oregon, and importuned congress, until, finally, a vessel was freighted, partly by the aid of government, and partly from the gifts of Sunday-school children and sewing societies. Not long afterward a mission was established among the Clatsops, and one near Fort Nisqually.

Meanwhile Jason Lee, recognizing that French prairie was not the best place in which to plant American institutions, selected a large and fertile plain, ten miles south of the original location, and called by the natives Chemeketa, that is to say, Here we rest. The place was well supplied with timber and water-power, and on his return from the east Lee proceeded to remove his people thither. Between 2,000 and 3,000 acres were selected and a grist and saw-mill erected.

After starting this new settlement, Lee, one of the brethren, and Hines, explored the Umpqua country, but found no inducement to plant a mission therein. On their return a misunderstanding arose between Lee and White, the latter having caused more money

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to be expended in the erection of a hospital than was approved of by Lee. White resigned and went home, where his representations to the board created an unfavorable impression with regard to Lee, whose course was likewise criticised by some of his own people. In fact, there was a foolish quarrel among the worthy missionaries.

Meantime Jason Lee continued to mature his plans for the founding of a methodist state. A building was erected on the Chemeketa plain, at an expense of $10,000; the Oregon institute was organized, for the education of white children, and a building constructed, at a cost of $3,000, three miles to the north.

But there was a scheme in which the methodist superintendent was, perhaps, still more deeply interested, and that was the acquisition of the water-power at the falls of the Willamette. John McLoughlin held the property, as was well known, having taken possession of it in 1829; and as no settlement of boundary had been arrived at, he could maintain his right. He had already made improvements by the erection of several houses and the construction of a mill-race. This, however, did not prevent the missionaries from finally securing a large share, after lengthy and bitter quarrels, during which were forgotten all the chief-factor's many deeds of kindness toward the very men who now repaid him with wrong and injustice.

In the autumn of 1843 the first large overland immigration of families arrived. In mission affairs Lee was superseded by George Gary, who had been sent out to investigate the conduct of the brethren. Two years later the former died in Canada. The latter reached Oregon city, June 1, 1844, and a meeting of the missionaries was held on the 7th at Chemeketa. After a long consultation it was decided to dissolve the mission. All the property, consisting of houses, farms, farming implements, cattle, mills, and goods of

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every description at Chemeketa, French prairie, and Clatsop, was sold. Some of the immigrants would have been glad to purchase, but it was all secured by the missionaries. Hamilton Campbell was allowed to buy all the mission herds on long credit, and George Abernethy obtained possession of the mission store. Houses and farms were disposed of to the amount of $26,000, less than half the original cost.

The methodist missions in Oregon were now all closed except the station at the Dalles, which was occupied only for the purpose of securing a valuable land claim. Thither Waller was sent, but Whitman, at Waiilatpu, wishing to purchase the property, it was sold to him, and the former returned to the Willamette. Thus ended ten years of missionary labor, at a cost to the society of quarter of a million dollars. The persons sent to Oregon by the society made good colonists and exercised a wholesome influence, which extended from missionary times to a much later date.

When the methodists arrived at French prairie in 1835, the Canadians became desirous of obtaining instructors of their own faith, and, in answer to their appeals, the archbishop of Quebec appointed the Reverend Francis Norbert Blanchet to establish and take charge of a mission in Oregon, with the title of vicar-general, and, for his assistant, gave him the Reverend Modesto Demers. The priests left Montreal in May 1838, arriving at Fort Vancouver in the autumn. Blanchet established himself among the Cowlitz, erecting a log house, the place receiving the name of St Francis Xavier.

During the summer of 1839, Demers visited the natives in the vicinity of Fort Colville and Nisqually, and on his return, in October, was assigned to the charge of the Cowlitz establishment, the vicar-general having proceeded to the Willamette valley, where he took up his residence October 12th, and dedicated to

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St Paul, January 6, 1840, a log church which had been built in 1836 in anticipation of the arrival of catholic priests.

Jealousy arose between the catholics and methodists. In the spring of 1840 Pierre J. De Smet, a Jesuit, established himself among the Flatheads, and by his imposing presence, his intellect, and energy, he achieved a marked success. Returning to St Louis, he came again the following year with the Reverend Gregorio Mengarini of Rome, the Reverend Nicolas Point, a Vendean, and three lay brothers who were good mechanics. On September 24, 1841, the Flathead mission of St Mary was founded on Bitter Root river, and later the mission of Sacred Heart among the Cœurs d'Alênes. Fathers Peter de Vos and Adrian Hoeken, with three lay brothers, were sent to the Rocky mountains, and De Smet was despatched to Europe to solicit aid. He was successful, and on July 31, 1844, he again arrived in Oregon, accompanied by fathers Antonio Ravalli, Giovanni Nobili, Aloysius Vercruysse, Michele Accolti, several lay brothers, and six sisters of Notre Dame de Namur. The sisters took possession of a convent prepared for them in French prairie, called St Mary, and opened a school for girls in October. With the aid of his reinforcements De Smet founded in quick succession the mission of St Ignatius among the Pend d'Oreilles, and the chapels of St Francis Borgia among the Kalispelms, St Francis Regis in Colville valley, St Peter's at the great lakes of the Columbia, the Assumption on Flatbow lake, and the Holy Heart of Mary among the Kootenai.

Meantime Oregon had been erected by Pope Gregory XVI. into an apostolic vicariate, Blanchet being appointed archbishop, and Demers succeeding him as vicar-general. The briefs reached Oregon November 4, 1844, and Blanchet proceeded to Canada to receive his consecration, and thence made a voyage to Europe, returning to Oregon in August 1847, bring-

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ing with him twenty-one recruits, among whom were seven sisters of Notre Dame de Namur.

During the archbishop's absence in Europe his vicariate had been erected into an ecclesiastical province, containing the three sees of Oregon city, Walla Walla, and Vancouver island. The first was allotted to the archbishop, the second to his brother A. M. A. Blanchet, canon of Montreal, and the third to Vicar-general Demers. The bishop of Walla Walla arrived in Oregon during the autumn of 1847, accompanied by nine others, among whom was J. B. A. Brouillet, who had been appointed vicar-general of Walla Walla.

Meanwhile matters were less prosperous among the presbyterians. In 1840 the station at Kamiah was abandoned, owing to the overbearing conduct of the Nez Percés, and affairs were almost as bad at Lapwai and Waiilatpu.

In September 1842 Whitman proceeded to Boston, with a view to procure further assistance for the missions. The board received him coldly, and he returned a year later, only to be finally killed by the Indians.

Jason Lee's lectures in the east in 1838 attracted immigration to Oregon. The first movement was from Peoria, in May 1839, when a party of fourteen, with Thomas J. Farnham in command, set forth for the Columbia river. Dissension, however, soon broke out among them, and at Bent fort the company disbanded. Farnham proceeded on his journey, and finally, in company with two others, Sidney Smith and a Mr. Blair, reached his destination. Blair spent the winter at Lapwai, Smith obtained employment with Ewing Young, while Farnham visited the Willamette valley. There he was frequently consulted as to the probability of the United States government taking them under its wing. Acting upon his advice, the inhabitants drew up a memorial to congress, setting forth their condition. It was signed by sixty-seven men, and given to Farnham, who carried it to Washington.

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In the western border states was a great number of men who were discontented with their locations, which were remote from a market for their productions, and virtually excluded from the channels of commerce. They were brave, restless, aggressive, and hardy; they were intensely patriotic, and a journey across a continent to assert American rights, with the offer of free lands on a seaboard which promised commercial relations with the Hawaiian islands and China, presented no difficulties that they would not attempt to overcome.

Early in the spring of 1843 emigrants from Arkansas, Kentucky, Tennessee, Illinois, Iowa, and Missouri were on their way to the great rendezvous near Independence. By the middle of May, nearly 1,000 persons were assembled, about 300 of whom were men capable of bearing arms. It was now thought time to organize. There was also a large company from the Platte purchase in Missouri under the leadership of Peter H. Burnett, of Weston, and another from St Clair county led by Jesse Applegate, his brothers Lindsey and Charles, and Daniel Waldo. A third party, bound for California, was led by Joseph B. Chiles; and other companies were under the leaderships of T. D. Kaiser, Jesse Looney, and Daniel Matheney. These several companies adopted the usual rules, and organized by electing Burnett captain and J. W. Nesmith orderly sergeant, nine councilmen being chosen to assist in settling disputes.

The body now moved forward, but after eight days Burnett became disgusted and resigned the command, William Martin being elected in his place. The latter found such difficulty in controlling so large a body that at Big Blue river, it was divided into two columns, Jesse Applegate taking command of the second and slower one, which was encumbered with herds.

Arriving in the country after the usual vicissitudes, the immigrants took up their several stations. Waldo made a settlement in the hills southeast of Salem,

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which still bears his name. Nesmith settled in that portion of the Yamhill district which now constitutes Polk county. The Applegates wintered at the old mission, Jesse being employed in surveying at Salem and Oregon City. In the spring the three brothers selected farms in Yamhill district, near the present site of Dallas.

For the first two years the general condition of the new immigrants was one of destitution. The immigration by sea during 1843 amounted to fourteen persons, among whom was Francis W. Pettygrove with his wife and child. He brought with him $15,000 worth of goods, and opened a store at Oregon City.

In the spring of 1844 a large company, amounting to 1,400 persons, was assembled at the Missouri river, of which Cornelius Gilliam was elected general, Michael T. Simmons colonel, and R. W. Morrison, William Shaw, Richard Woodcock, and Elijah Benton captains. A court of equity was also established by the election of a judge and two associate justices.

Gilliam had conceived the idea of establishing an independent colony, and the several leaders aspired more to military glory than to the peaceful pursuits of settlers. At this time the attitude of the two governments with respect to the boundary question, had assumed a warlike phase, and these immigrants would have delighted in driving away the British. Gilliam had served in the Black Hawk and Seminole wars; had preached the gospel, and been sheriff of a county. He was a fair specimen of the muscular parson, brave, impetuous, and generous, though somewhat wilful and obstinate. He had good natural abilities, though but little developed by education. Simmons was also uneducated, but being of a fearless and resolute disposition was well suited to the position of colonel of such an organization. After much suffering and a few deaths, the company reached its destination in a disorganized condition.

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Homes were the first requirement, and in their selection McLoughlin was naturally anxious that no settler should locate himself north of the Columbia. He sought by every means to cultivate a friendly feeling, but there were some among those hardy pioneers who were aggressive in the extreme. They were determined, before any boundary line between the conflicting governments was agreed upon, that Oregon, north or south of the Columbia, should not become British territory. And thus it was that in February, 1845, Henry Williamson, of Indiana, and Isaac W. Alderman erected a small log-cabin half a mile from Fort Vancouver, and posted thereon a notice that they intended to claim the land. McLoughlin pulled down the cabin and tore the notice to pieces. Then followed a stormy interview between the squatters and the factor, at which Alderman made himself conspicuous for his abusive language and violent demeanor. He went to California in 1848, and was killed in December of that year by Charles E. Pickett at Sutter's fort, under circumstances that justified the homicide.

In no particular does it appear that McLoughlin overstepped the limits of his position in dealing with this aggression. His duty was clearly marked out—the protection of the Hudson's Bay company's posts and property. Trespassing upon land to which the company had a prior right or claim, pending a settlement, could not be admitted by one in charge of the company's interests. McLoughlin's earnest wish was to be at peace, and avoid lawlessness and misrule. He assisted, as far as it was possible for him to do so, the destitute and needy, supplying them on credit with the means of subsistence and agricultural implements. Yet his beneficent intentions were not appreciated at the time. There was a pressure, irresistible in its action, the surge of a human tide, determined to gain possession of the land. And thus it was that his benevolence, being regarded as weakness, provoked

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encroachment. Williamson and Alderman had to yield, but their discomfiture did not deter others from proceeding further northward and settling on Puget sound. Michael T. Simmons, James McAllister, David Kindred, Gabriel Jones, and George W. Bush, with their families, and two unmarried men, Jesse Ferguson and Samuel B. Crockett, settled at the head of the sound in the neighborhood of Tumwater.

The migration into Oregon in 1845 was far in excess of those of previous years, the estimated arrivals being no less than 3,000 persons, which doubled the white population, and had a marked effect on the solution of the boundary question. At this date it was a moot question whether the British or Americans would secure California, it being well understood that the possession of that region would give command of the seaboard thence to the undisputed British territory. The immigration of 1846 was not so large as that of the previous year. It is probable that it amounted to between 1,500 and 1,700 persons.

In close connection with these migrations westward —some portions of which it must be understood turned toward California—were the explorations made in the endeavor to find a practicable wagon route leading into the Willamette valley. The sufferings of the immigrants of 1843–5 stimulated both the United States government and the colonists in Oregon to search for a good road between the eastern states and the far-off regions bordering on the Pacific. An impulse was, moreover, given both to the government and colonists by the boundary question. The possibility of troops being sent overland from Canada, in case of hostility, had been investigated by the British officers, Park and Peel, and the fur company's posts had been found to be so located that there would be no great difficulty in marching a strong force into the disputed territory. Settlers in Oregon were there-

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fore anxious, in view of their determination to hold possession, that an equally good route to some central point should be discovered and opened up, in order that troops and armaments might be concentrated against possible attack.

Early in May 1846, a company was formed to search for a pass in the Cascade mountains. It was privately assisted by Jesse and Lindsey Applegate, but failing in its first attempt returned for reënforcements. The two Appelgates thereupon determined that a further effort should be made, and leaving the comforts of home, proceeded with thirteen others to perform the difficult task. Besides the Applegates was Levi Scott, a native of Illinois, a man of character and determination, and the prime mover of the enterprise. Others were Henry Bogus, David Goff, Owens, and Harris. They succeeded in discovering passes through the Cascade range and the dividing ridge which separates the great basin of the Humboldt and the lake basin of the Pacific coast.

Among the several routes discovered the superiority of the southern one was established by Scott, who in May 1847 guided over it a party of twenty men returning to the States, and also a portion of the migration of the following autumn. Scott's company reached the Willamette in good season and in good condition, whereas those who took the northern road underwent the usual hardships. The legislature of this year passed an act for the improvement of the southern route, making Levi Scott commissioner, and allowing him to collect a small toll. Scott was the founder of Scottsburg, on the Umpqua river, and died in Lane county in 1878, at the age of eighty. He was much respected for his many estimable traits of character.

Jesse Applegate settled in 1849 at the headwaters of Elk creek in the Umpqua valley, and near him was his brother Charles. Lindsey Applegate settled somewhat later on Ashland creek, where the town of Ashland now stands.

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Having thus narrated the leading incidents connected with the colonization of Oregon, we are prepared to understand events in connection with the origin and development of a territorial government.

Prior to the arrival of Americans in the Oregon country no legal formalities had been found necessary. The authority of the chief factor was absolute, the fur company's charter empowering the governor and council to put on trial and punish offenders belonging to its corps of employés. The Canadians and other servants of the company yielded without question to their right to judge and punish. But with the Americans it was different. The charter forbade any British subject to trespass upon the company's territory for the purposes of trade, but this prohibition could not apply to others.

Foreseeing that troubles would arise, McLoughlin took timely measures by procuring, through an act of parliament, the appointment of justices of the peace in different parts of the country, James Douglas being selected to fill that office at Fort Vancouver. These justices were empowered to adjudicate in cases of minor offences, and impose punishment; to arrest persons guilty of serious crimes and send them to Canada for trial; and to try civil suits where the amount in dispute did not exceed £200, and give judgment therein.

In order not to be behind the British fur company in the exercise of civil jurisdiction, the methodist missions in 1838 furnished the colonists with a magistrate and constable. The arrival of the great missionary reënforcement of 1840 made it manifest that some form of government would soon be needed, and in the following winter the death of Ewing Young furnished the occasion for establishing some such machinery. Young had left property to which there were no known heirs, and the administration of the estate became necessary. A meeting of the settlers was

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called, to be held on the 17th and 18th of February, 1841, the result of which was the choosing of a committee to frame a constitution and code of laws; and though it was deemed expedient to defer the election of a governor, owing to the opposition of the settlers to a chief magistrate drawn from the missionary party, a supreme judge with probate powers, a clerk of the courts, public recorder, high sheriff, and three constables were chosen. The convention then adjourned to meet again on the 7th of June.

But when that day arrived it was found that no report had been prepared by the committee, which in fact had not even been called together by its chairman, F. N. Blanchet, who now resigned. The fact is that the mission party, which was scheming to establish a government, hoped to secure the catholic influence by making Blanchet chairman of the committee, and his withdrawal signified that the Canadians would take no part in its organization. Resolutions were passed rescinding the nominations made at the previous meeting, and an adjournment made to the first Thursday in October. The question as to the necessity of a governor was revived, while many influential persons were opposed to the idea of a government so long as harmony existed without one. Moreover, Lieutenant Wilkes, in command of the United States exploring expedition, was in Oregon at this time, and being consulted condemned the scheme on the ground that only a small minority of the people, desired to establish a government; that laws were not necessary and would be a poor substitute for the moral code followed by all; that the majority of the population being catholic would elect all the important officers; and that an unfavorable impression would be produced in the United States as to the influence of missions, which were obliged to resort to a criminal code. Thus baffled, the missionary party made no further effort for the moment.

The return of White in 1842, with a provisional

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claim to the governorship appended to his commission as Indian agent, stirred up the question anew. Few were anxious to see White the civil head of the community; and the missionary party, without openly opposing him, quietly used their influence to crush him.

During the autumn of 1842 overtures were again made to the Canadians to assist in forming a temporary government, but they again declined. Meetings, however, were held in different parts of the colony, called ostensibly to devise means of protecting the herds from wild animals, but really to bring the settlers together, both Canadian and American, in order that the plan of a provisional government might be broached. Notice was given that a general meeting would be held, March 6, 1843, at the house of Joseph Gervais, a friend of the methodist mission; and as almost every settler had sustained loss through destruction of stock by panthers, wolves, and cougars, the meeting was well attended. The preliminary business being concluded, and a Wolf organization formed, a resolution was passed, "that a committee be appointed to take into consideration the propriety of taking measures for the civil and military protection of this colony." A committee of twelve members was appointed to report. Meantime, the matter was skilfully agitated among the settlers, who were convinced that an organization was becoming inevitable; and the time for action being now ripe, the committee called a mass meeting to be held May 2d at Champoeg to hear their report.

The number of American and Canadian settlers that assembled on the appointed day was about equally divided. After the report of the committee, which was in favor of organization, had been read, a motion to accept it was made. Thereupon considerable confusion ensued, and it was found impossible to count the ayes and noes without a division of the meeting. This being done, it was found that a small

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majority was in favor of organizing a temporary government, whereupon the minority withdrew.

The report of the committee was next taken and disposed of article by article, the result being the election of a supreme judge, recorder, sheriff, four magistrates, and four constables. Military officers were also chosen, and a legislative committee, consisting of nine members, whose duty it was to draft a code of laws, the 5th of July being appointed as the day on which to receive their report. At the appointed time the meeting assembled, and adopted the several reports on the judiciary, ways and means, military affairs, land claims, and the division of the territory into districts. The legislative power was vested in a committee of nine persons, to be elected annually. The judicial power was vested in a supreme court, consisting of a supreme judge and two justices of the peace.

The question of an executive had troubled the minds of the legislative committee not a little. Such a head was necessary, and the committee solved the difficulty by recommending the appointment of an executive committee. This article of the proposed code caused considerable debate, but the plan was finally adopted, David Hill, Alanson Beers, and Joseph Gale, none of whom had influence enough to be dangerous, being elected the members of the first executive committee.

As regards the military law, it provided for one battalion, divided into three or more companies of mounted riflemen. With the consent of the executive committee, White, as an authorized agent of the United States, might call on these troops to quell uprisings of the Indians.

The law of land claims was the most important of all to those who were in favor of organization. It required that each claimant should designate the boundaries of his claim and have the same recorded in the office of the territorial recorder. Improve-

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ments must be made on the land within six months after recording, and the claimant was required to reside on it within one year thereafter. No one could hold a claim of more than one square mile, or its equivalent in acres in an oblong form. The fourth article was designed to extinguish John McLoughlin's claim at Oregon City. It forbade all persons to hold claims upon city or town sites, extensive water privileges, or other locations necessary for mercantile or manufacturing purposes. When the motion was put to adopt the law as a whole, considerable argument arose, as the mission laid claim to a portion of the land and had erected mills on the island at the falls. In order to meet the emergency and satisfy the mission, a proviso was introduced to the effect "that nothing in these laws shall be so construed as to affect any claim of any mission of a religious character, made previous to this time, of an extent not more than six miles square." Thus early was legislation perverted in the name of religion.

A committee composed of Jason Lee, Harvey Clark, and David Leslie was chosen to administer the the oath of office to those who were elected on May 6th, and also to the supreme judge, who thereafter would qualify all civil and military officers elected by the people. The oath of office was also administered the same day to the three members of the executive, and the business of starting the machinery of the first government of Oregon was concluded.

As I have already mentioned, the immigration of 1843 greatly swelled the number of the settlers. The new-comers were a people of pronounced character, and their leaders aspired to the achievement of founding a state. On their arrival they eagerly discussed the laws that had been passed, of which the land law was the most important. Thereby it was enacted that new settlers should record their claims within twenty days after locating them, while old settlers were allowed a year. This was regarded as un-

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just discrimination; and the proviso allowing the missions six miles square indicated the grasping disposition of the missionaries. Nevertheless this sect was of all religions usually the most popular on the western frontier; and many of the immigrants of 1843 being zealous methodists attached themselves to the missionary party

But most of the leading men were not hampered by religious allegiance, and these openly exhibited a preference for the officers of the fur company, whose friendship and respect they had gained by their true manliness.

The Hudson's Bay company recognized that some form of government had become necessary, but they could not bring themselves to the point of rendering allegiance to the United States. They, therefore, were in favor of a temporary government, independent of that power, which plan was approved even by some of the Americans. The majority, however, were opposed to such a compromise—the missionaries, because in the event of a union of the two nationalities, they would be unable to hold a leading position in affairs; and others through motives of patriotism.

According to the organic law the election was held on the second Tuesday of 1844, at which W. J. Bailey, Osborne Russell, and P. G. Stewart were chosen for the executive; the legislative branch was composed of P. H. Burnett, M. M. McCarver, David Hill, Mathew Gilmore, A. L. Lovejoy, Daniel Waldo, T. D. Kaiser, and Robert Newell. Bailey had been in Oregon since 1835. He was of English birth, of liberal education, and well adapted to the position. Russell was a native of Maine, and had been several years in the mountains with the fur companies. He was a man of education, refinement, and unswerving integrity.

The executive message to the legislature recommended that several alterations should be made in the organic law, and also contained various good sug-

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gestions. Much of the work of the previous year was undone by the legislature of 1844. By an act of June 27th the executive power was vested in a single person, to be elected at the next annual election, and to hold office for a term of two years. The legislative power was vested in a house of representatives, consisting of thirteen members, nine being thought too small a number, in view of the increased population. The judiciary system was also changed, the judicial power being vested in circuit courts and justices of the peace, while a judge with probate powers was to be appointed, whose duty it should be to hold two terms of court in each county, annually.

One of the conditions insisted upon by the old colonists, in consenting to the organization of a government, was that they should not be taxed. But a regular government could not be sustained without a revenue, and the ways and means act called for a tax of one-eighth of one per cent upon the value of merchandise brought into the country; on improvements on town lots; on mills, private carriages, clocks, watches, horses, mules, cattle, and hogs. Every white voter, moreover, had to pay a poll-tax of fifty cents. The same act provided that any person refusing to pay taxes should have no benfit from the laws of Oregon, and should be disqualified from voting. This pressure was effectual; few were willing to forego the assistance of the government in preventing trespass and collecting debts, or to be placed outside the pale of politics and society.

The land law was repealed, and the obnoxious discrimination between old and new settlers done away with by dispensing with the custom of recording claims, which was considered a doubtful privilege, as the country was unsurveyed. Only free men over eighteen years of age could legally claim 640 acres, though a boy under eighteen, if married, could hold land; occupancy was interpreted as actual residence by the owner or his agent. But the great change

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desired by the people was to disallow the right of missions to hold six miles square of land, and as three-fourths of the legislature were new-comers—the ninth member not having been elected—this was effected, and the missions placed on the same footing with other claimants.

The seat of government was established at Oregon City, called in the act Willamette Falls, and the Columbia river declared to be the northern boundary of the territory; but this last act caused such an outburst of popular opposition that at the second session, in December, an explanatory act was passed, defining the territory of Oregon as lying between latitudes 42° and 54° 40′, and extending from the Rocky mountains to the sea.

Slavery was forbidden in Oregon, and laws were enacted bearing upon that question. Neither could the presence of the free negro or mulatto be tolerated; and to rid the country of this objectionable element it was enacted that corporal punishment should be inflicted on all black men of eighteen years and upwards, who had had not left the territory within two years after the passage of the act. Such a law, however, conflicted too glaringly with the spirit of free institutions, and it was amended at the December session. The section making whipping the punishment for remaining in the country was repealed, and one substituted, providing for the hiring out of such offenders, to any person who would give bonds to remove them out of the territory within the shortest possible space of time, availing himself of their services by way of compensation. During the two years that this law remained inoperative, changes occurred in the territory which did away with the motive for enforcing it.

Another act passed at the December session, provided for the holding of a constitutional convention, and the executive committee was required to notify the inhabitants that at the next annual election they

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should give their votes for or against the call for a convention to frame a constitution. This act was unfavorably regarded by the admirers of the original organic law, being considered a movement toward an independent government; but considering the slowness with which the settlement of the boundary question was proceeding, the acts of December showed a determination to perfect, as rapidly as possible, a government which would be able to cope with whatever exigencies might arise.

The expenses of this incipient government were extremely small. The salary assigned to the future governor was only $300 a year, and the pay of the executive committee the same amount, that is, $100 to each member. The legislative committee voted themselves two dollars a day, and the same for the assessor of revenue. The whole expenses of the government during the first year amounted to $917.96, to meet which there were $358.31 in the treasury, the tax-collector not having yet completed his labors. This was less than fifty cents for each individual of the country, the number of the inhabitants being 2,109, according to the census taken that year by order of the legislature

It may be considered that there were now but two prominent parties in Oregon, the American and the independent, the latter including the Canadians. There were four candidates for the governorship, A. L. Lovejoy, George Abernethy, Osborne Russell, and W. J. Bailey. Lovejoy represented the American, Russell, the independent, and Abernethy, the now feeble mission party. At the convention which was held at Champoeg, April 8, 1845, Lovejoy obtained the greatest number of votes; but before the election, the independents, seeing the impossibility of securing the office for their own candidate, went over to Abernethy, who accordingly became governor.

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The call for a constitutional convention was lost by a considerable majority.

The legislature held that it was not a constitutioual body, because the organic law under which it had been created had never been submitted to the people for approval. During the session, however, the organic and other laws were revised, especially the land law, which was incorporated in the organic laws. It was much altered in its construction, no discrimination being made in regard to color, nationality, age, or sex. The revised organic law was called a compact instead of a constitution.

On July 5th the legislature adjourned to meet again on August 5th. A special election was held July 26th, at which the people were made acquainted with first, the original laws enacted July 5, 1843; second, the amended laws; and third, a schedule declaring the governor and legislature elected in June, the officers to carry into effect the amended organic laws. As there was no printing-press in Oregon manuscript copies of each law were made and read three times at every polling place. The majority were in favor of the amended laws, and the list of officers elected in the previous June was over two hundred.

The leading spirit in the legislature of 1845 was Jesse Applegate, whose fidelity to his trust is stamped upon their proceedings. Early in the first session a memorial to congress was prepared, setting forth the condition and wants of Oregon. It was given to Indian Agent White to be carried to Washington, whither he was proceeding to obtain an adjustment of his accounts, no funds having been placed at his disposal wherewith to reimburse himself for expenses incurred in the Indian service.

White's aspirations to the governorship had been disappointed by the turn which affairs had taken in Oregon, as well as by the change in the administration which had occurred at Washington. Moreover, circumstances occurred shortly after his departure

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that excluded him thereafter from taking part in politics in Oregon. The speaker, M. M. McCarver, had not at first attached his signature to the copy of the organic law which accompanied the memorial, because he was opposed to the amended form. Just before White's departure, however, he clandestinely added his name to it as speaker of the house. As soon as White had started on his journey, Barton Lee exposed the affair to the house, and a messenger was sent after him to bring back the documents. The Indian agent defiantly declined to relinquish them, and proceeded on his journey. This ended White's career in Oregon. Resolutions were passed declaring him to be not a proper person to fill any office in the country, and attested copies forwarded to Washington, which action, with the changes that had occurred in the capital, defeated his aspirations.

During the first session Governor Abernethy was in the Hawaiian islands, but by the opening of the second session he had returned, and sent in his first message. In 1841 the United States vessel *Peacock* was lost inside the bar of the Columbia, and the commander, Wilkes, left the launch with all its rigging in care of McLoughlin until called for by some person authorized by him or by the government of the United States. The legislature, however, considered that the new government was the proper custodian of the boat, and asked McLoughlin to deliver it up, which he declined to do. At the third session an act was passed authorizing the governor to take charge of the launch, and demand possession of the rigging. Abernethy addressed a letter to McLoughlin enclosing a copy of the act, and requesting him to make the delivery, McLoughlin again declined to surrender the boat, and the matter threatened to become serious. It was finally settled by his placing the launch and its rigging in the hands of Lieutenant Howison of the United States navy, who sold it to a Mr Shelly for the avowed purpose of using it as a pilot boat. In

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this affair the Oregon legislature acted on the principle that, as the representatives of the people, they had a right to take charge of the United States property.

Early in the session a bill was passed adopting the statutes of Iowa so far as they were applicable to the circumstances of the country, and the next step was to extend the jurisdiction of the government to the territory north of the Columbia. This was done by creating the district of Vancouver, embracing all the region north and west of that river. And now came the matter of apportionment, in which connection arose the important question whether the Hudson's Bay company would become parties to the articles of the compact by the payment of taxes. The subject was broached to McLoughlin by Applegate, and under the circumstances the former deemed it prudent to comply. In June McLoughlin had received a communication from the directors informing him that in the present state of affairs the company would receive no protection from the government, and must protect itself as best it could. McLoughlin and Douglas considered that the best means to secure the company's property would be to join the Americans in their organization of government, and agreed to do so provided they were called upon to pay taxes only on their sales to settlers. This condition was accepted, and the officers of the fur company, with all the British residents, became parties to the compact. In the election of officials James Douglas was chosen district judge for three years, and John R. Jackson was made sheriff of Vancouver district. This arrangement was most opportune.

A few days after McLoughlin and Douglas had given their consent, Captain Park of the royal marines arrived from Puget sound with a letter from Admiral Seymour in command of the British squadron in the Pacific, informing McLoughlin that protection would be given to British subjects in Oregon;

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and about the 1st of October the *Modeste*, Captain Baillie, sent by the admiral for that purpose, anchored in front of Vancouver. Had this occurred a short time before, McLoughlin would not have agreed to the union, and war would probably have been the result. As it was, his conduct was severely condemned by the authorities. Among other accusations, he was charged with having pursued a policy which encouraged the introduction of American settlers into the country until they outnumbered the British. His answer was that while he had done some things purely for humanity's sake, he had, nevertheless, always intended to avert, and had averted, a collision by displaying courtesy and kindness to the American immigrants. In joining the political organization, he had done what he deemed for the best, no less the best for the company than for humanity. In 1843 he had informed the directors of the threats against Fort Vancouver, and asked for protection; receiving none, he did not see how he could have acted otherwise. And now, weary of a responsibility which increasing years made doubly burdensome, and feeling himself somewhat too jealously watched by the British government, in the autumn of 1845 he tendered his resignation, and in the spring of the following year took up his residence in Oregon City with the intention of becoming an American citizen. He was succeeded at Fort Vancouver by Peter Skeen Ogden, while James Douglas was established in command of Victoria, Vancouver island.

The aspect of affairs in the spring of 1846 was so significant of England's intention to maintain her claim to Oregon that, though in the amended organic law the subject of military organization had been neglected, some spirited citizens called a meeting at the house of David Waldo, in Champoeg county, and organized a company of mounted riflemen, with Charles Bennett as captain.

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About the same time the British frigate *Fisgard* arrived at Nisqually, there to remain as long as the war-cloud threatened. In fact, the boundary question had now reached the point where it would have to be settled, and England finally accepted the 49th parallel. During the process of adjustment, and before the cry of fifty-four forty or fight had died away, the joy and exultation of the colonists were unbounded. But when copies of the treaty reached them, and it was realized that the 49th parallel, instead of the 54° 40′ line, was the boundary agreed upon, and that the Hudson's Bay company was confirmed in the possession of lands and other property which it held in the territory, dissatisfaction was general. The treaty was so unpopular in Oregon that instead of healing, it intensified hostilities.

A memorial to congress was prepared which, after calling attention to the great productiveness of the territory, proceeded to state that the colonists had been induced to undertake the difficult journey to Oregon by the promise of the government that their lands should be secured to them, and they asked that their claims might be confirmed. They, moreover, required schools, a steam tug-boat for the navigation of the Columbia, and a railroad to the Pacific, and solicited the aid of government to procure them.

An election was held in June 1847, and Abernethy again chosen governor. He was a native of Aberdeen, Scotland, though reared under American institutions; a man less strong than politic; indeed, his strength lay in the direction of White's—adaptability and persuasiveness. He was very careful not to offend public opinion, either in a religious or political point of view, and therefore could not exercise much influence for any length of time. Courteous in demeanor, he was reticent, designing, and implacable in his hatred, as weak men often are.

During the following year Cornelius Gilliam was appointed superintendent of postal affairs, and Charles

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E. Pickett Indian agent. Another memorial was mailed to the general government, complaining of neglect. As Oregon could not agree on a delegate to Washington, J. Quinn Thornton secretly departed thither by sea as agent of Abernethy. This made the people angry, and they sent Joseph L. Meek overland with despatches. Thornton reached Washington on the 11th of May, 1848. The letters with which he had been provided by Abernethy secured for him a friendly recognition, and but for the appearance of Meek, the duly authorized messenger of the colonial government, he would have received some consideration.

On the arrival of Meek, whose mountain costume and rugged appearance attracted much attention in Washington, President Polk laid before congress a special message on the Oregon question, in which he quoted some passages from the memorial brought by Meek, touching upon the neglect of congress. Again he called attention to the want of a territorial organization, and recommended that a regiment of mounted men should be raised for service in Oregon, and Indian agents appointed for the different tribes.

On the 31st of May Senator Bright of Indiana again brought up the Oregon bill. After a long discussion of the slavery question, on August 2, 1848, the bill passed the house, and between nine and ten o'clock on Sunday morning, August 13th, it passed the senate, after an all-night session. Thus Oregon became a territory of the United States on her own terms.

Though Oregon had been granted a territorial organization, nothing was done on the all-important subject of land claims, except to secure the missions in the possession of 640 acres each, and deprive every one else of the title they formerly held under the provisional government. In section 14 of the territorial act it is provided that "all laws heretofore passed in said territory making grants of lands . . .

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are hereby declared to be null and void." Nor was anything done for the timely relief of Oregon in the matter of troops and munitions of war.

President Polk, who had been elected on the issues of the Oregon question, anxious that the new territory should be established during his administration, appointed Joseph Lane of Indiana, governor, with instructions to organize the government before the 4th of March following. The other appointees were Knitzing Pritchett of Pennsylvania, secretary; William P. Bryant of Indiana, chief-justice; William Strong of Ohio and O. C. Pratt, associate justices; Amory Holbrook, United States attorney; Joseph L. Meek, marshal; and John Adair of Kentucky, collector for the district of Oregon.

On August 20th Meek received his commission as well as that of Governor Lane, to whom he delivered it on the 27th, and on the 29th they were on their way to Oregon. Owing to the lateness of the season they were compelled to take the southern route by way of Santa Fé and Tucson to California; and after a slow and toilsome journey, and an equally tedious voyage, they reached Oregon City March 2, 1849.

On the following day Governor Lane published a proclamation making it known that he had been appointed governor of Oregon Territory and had entered upon the discharge of the duties of his office, and declaring the laws of the United States to be in force therein. Thus Oregon enjoyed one day's existence under the administration of the president whose acts were so closely linked with her history in the settlement of the boundary question.

Without noise or disturbance, the provincial government came to an end, and with its extinction died the missions' political influence. For several years the head and front of this party had been Abernethy, who after the change in affairs accumulated wealth by business ventures. But overreaching himself,

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after some years of prosperity, he lost his hold on fortune, and became involved in debt. In 1861–2 the flood which devastated Oregon City swept away most of what remained of his property, whereupon he removed to Portland and there remained until his death in 1877.

In 1842 threats were made by the Nez Percés to exterminate the missionaries, while the Cayuses had an evil eye on the settlers of the Willamette, as well as on the Whitman family at Waiilatpu, which resulted in the massacre of 1847. Great excitement prevailed over all the country. A military force was organized, and the dogs of war were let loose; but by the discovery of gold in California, early in 1848, avarice gained for a time the ascendency over revenge. The hostile tribes were visited by Governor Lane as soon as he had set in motion the machinery of his government in 1849.

Joseph Lane at this date was forty-eight years of age, and though not a large man, possessed a strong constitution and a tough and wiry frame. He left his parents' home in North Carolina, at the age of fifteen, to seek his fortune, settled in Indiana, and married when only nineteen. Then followed a sharp but brief struggle with poverty, which his thrift and industry quickly overcame. His rare gift of tongue soon made him a man of mark, and he was elected captain of the local militia. This distinction spurred his ambition, and he devoted all his spare hours to self-education, studying while others slept. His first business venture was the purchase of a flat-boat in which he carried freight on the Ohio. While still young he was elected to the legislature of Indiana, first to the house and then to the senate. On the outbreak of the Mexican war he enlisted as a private in the 2d Indiana volunteers, and when the regiment assembled, was chosen its colonel, being afterward commissioned brigadier-general. After its conclusion he was appointed governor of Oregon.

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On July 16th the first territorial legislature assembled at Oregon City. According to the act establishing the government, it consisted of nine councilmen of three classes, whose terms expired with the first, second, and third years respectively, and eighteen members of the house of representatives, who served for one year. Provision, however, was made by the law for an increase in the number of representatives from time to time, in proportion to the increase of qualified voters, until the maximum of thirty should be reached.

Lane's suggestions as to the wants of the territory were practical. The most important of his recommendations was the one with reference to the expected donation of land, for which a memorial was made to congress. Other requests contained in the memorial related to school lands; to military and post roads; the extinction of Indian titles, and the removal of the natives from the neighborhood of the white settlements. Attention was also called to the difficulties existing between American citizens and the Puget Sound Agricultural company, the boundaries of whose extensive claim were undefined and imaginary. The government was requested to purchase the lands rightfully held by treaty in order to put an end to disputes. The next matter attended to was the laying out of the judicial districts. It was decreed that the first should consist of Clackamas, Marion, and Linn counties; the second of Benton, Polk, Yamhill, and Washington; and the third of Clarke, Clatsop, and Lewis. On September 29th the legislature adjourned.

In the autumn a rifle regiment arrived which had been enrolled for the protection of Oregon. It had come from Fort Leavenworth, and numbered about 600 men, with thirty-one commissioned officers, under the command of Brevet-colonel W. W. Loring. Two posts were established on the way, one at the fur-trading station of Fort Laramie, and another called

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Cantonment Loring, three miles above Fort Hall on Snake river. The troops were quartered in Oregon City, and kept there at great expense and with much disturbance of the peace.

Soon after Major Hathaway landed his artillerymen, Major Ingalls arrived at Vancouver with instructions to establish military posts in Oregon. For the erection of barracks at Vancouver, Hathaway leased land of the Hudson's Bay company, pending the purchase by the United States of the company's possessory rights. This was also done at Fort Steilacoom, where Captain Hill established himself in August. At the end of September, General Persifer F. Smith, in command of the Pacific division, arrived in Oregon from California and approved of the selections. Smith had the welfare of the territory at heart, and made many excellent recommendations to the government.

With the organization of the territory, and the introduction of United States troops, it became necessary to appoint government reservations. The first one selected was Miller island in the Columbia, five miles above Vancouver. This reserve was declared in February, 1850, and was followed by others at Vancouver, the Dalles, and Milwaukee, on the land claims of Meek and Luelling. This appropriation of property gave rise to much complaint, and was resented by the founders of Oregon as an encroachment upon their rights.

Ever since the arrival of Governor Lane negotiations had been carried on for the voluntary surrender of the Cayuse murderers by their tribe. It was clearly represented to them that they need not hope for peace and friendship until the guilty parties had been given up. At last in the spring of 1850 word was received that such of the culprits as were not already dead would be delivered at the Dalles. Lane went there in person to receive them. There were five in all, Tiloukaikt, Tamahas, Klokamas, Isaiacha-

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lakis, and Kiamasumpkin. On May 22d they were tried at Oregon City, the prosecution being conducted by Amory Holbrook, district attorney. The trial lasted two days, resulting in a verdict of guilty. Sentence of death was passed by Judge Pratt, the 3d of June being appointed as the day for their execution. Catholic priests took charge of the spiritual affairs of the condemned, who at the fatal hour met their doom with true Indian stoicism. Thus justice, though slow of foot, pursued to their destruction the perpetrators of the Whitman massacre.

The first delegate to congress was Samuel R. Thurston, who was elected on the issue of the anti-Hudson's Bay company sentiment. During 1849 most of the Canadian voters and the young and independent western men were absent. This opportunity was not lost by the missionary element, which returned their democratic candidate by a large majority over his whig opponent Nesmith.

Thurston was a native of Monmouth, Maine, and graduated in 1843 from Bowdoin college, after which he commenced the study of law in Brunswick, where he was soon admitted to practise. A natural partisan, he became an ardent democrat, and was not only fearless but aggressive in his career as a political leader. In 1845 he removed to Burlington, Iowa, where he edited the *Burlington Gazette* until 1847, when he migrated to Oregon. He was a man of marked ability, gifted with great power of language, with ease fully commanding his audiences, and could, when the occasion required it, be eloquent and impressive, with no small sprinkling of sarcasm and invective.

When in congress he made a vigorous attack on the possessory right of the Hudson's Bay company, and introduced a number of resolutions designed for the purpose of putting an end to the company's very existence in Oregon. Indeed from first to last, whatever may have been his motives, whether personal or patriotic, he acted throughout with cease-

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less hostility to every interest of the fur company, and to every individual in any way connected with it. He worked with extraordinary persistency, and with consummate tact and diplomacy, for the passage of the donation land law in such a form as would exclude British subjects from its benefits, and deprive McLoughlin of his claim at the falls of the Willamette.

The treatment of their benefactor, John McLoughlin, by the pioneer methodists of Oregon, and their partisans, will ever remain a foul blot upon their memory, and a stain on their religion. McLoughlin died September 3, 1857, at the age of seventy-three years. In his last illness the unhappy old man betrayed the bitterness of heart which his enemies had inspired even in his kindly nature. Shortly before his death he said to Grover, then a young man, "I shall live but a little while longer, I am an old man and dying, and you are a young man and will live many years in this country. As for me I might better have been shot—I might better have been shot forty years ago!" then, after a pause—"than to have lived here, and tried to build up a family and estate under this government. I became a citizen of the United States in good faith. I planted all I had here, and the government has confiscated my property." He then requested Grover to use his influence to obtain the property for his children. With tardy justice the Oregon legislature finally surrendered the property to McLoughlin's heirs, thus confirming the charge of injustice upon the religionists who despoiled him

Meanwhile, Thurston, though reviled in the public prints toiled on, using every effort to win favor with the people, and secure his reëlection. He exerted himself to save Meek's land claim from being made a government reservation; he secured for the Pacific coast a postage rate uniform with that of the Atlantic states; and obtained appropriations for Oregon amounting to

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$190,000, of which sum $100,000 were for the expenses of the Cayuse war. Nevertheless, a reaction was setting in and all generous-minded men began to realize that there were others who could represent the public interests in congress without disgracing the country. The consequence was that Lane was brought forward as an opposing candidate. But the hand of death already overshadowed Thurston, and screened him from the humiliation of defeat. Eaten up of ambition, his health had long been failing, and as he had not spared himself, ill or well, he rapidly succumbed. He breathed his last at sea on board the *California* off Acapulco, on his return to Oregon, being then, April 9, 1851, thirty-five years of age.

The successor to Governor Lane was General John P. Gaines, with General Edward Hamilton as secretary, and Strong, judge of the third district. He arrived in Oregon August 15, 1850. General Gaines was born in Augusta, Virginia, in September, 1795, removing in early youth to Boone county, Kentucky, which state he represented in congress from 1847 to 1849. He volunteered in the war of 1812, and took part in several engagements. He served also in the Mexican war and received his appointment as governor of Oregon on his return. His arrival was not very welcome to the democrats, who sincerely regretted the removal of Lane, whom Gaines was very dissimilar to in character. Phlegmatic in temperament, he was fastidious as to his personal surroundings, a vain and narrow-minded man, pompous, pretentious, and jealous of his dignity. The spirit with which the democracy received this whig governor was ominous of the partisan warfare which quickly followed.

When the legislature met on December 2d, the most important matter decided on was the location of the capital, which was the subject of lively contest, as was also the expenditure of the appropriations for the erection of public buildings. After a warm com-

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petition, Salem was made the seat of the government, Corvallis was given the university, and Portland the penitentiary.

Upon the death of Thurston, Lane was made delegate. The question of location of the capital led to the organization of a democratic party in the spring of 1852, forcing the whigs to nominate a ticket. In 1850 congress passed an act extinguishing Indian titles west of the Cascade mountains, and appointed Anson Dart, of Wisconsin, superintendent of Indian affairs. Three commissioners were appointed to make treaties. Hostilities broke out on Rogue river, and the Indians were punished severely, Gaines, Lane, and Kearney figuring in the affair.

While at Washington in 1853 Lane was again appointed governor of Oregon, where he arrived May 16th. He soon resigned his position, however, and was again returned to the federal capital as delegate. Late in October intelligence was received that John W. Davis, of Indiana, had been appointed governor. He arrived at Salem December 2d, bringing with him $40,000 for the erection of a capitol and penitentiary.

Davis was a native of Pennsylvania, where he studied medicine. Having settled in Indiana, he served in the legislature of that state, and was three times elected to congress, during the period between 1835 and 1847. During his short term of office, which only lasted eight months, he displayed a prudence and discretion in his relations with the legislature that were in strong contrast with the officious interference by which Gaines had so much offended that body. Davis was really a good man and a democrat withal; yet George Law Curry stood so high in the estimation of the people of Oregon, that the former was advised to resign, in order that the latter might be appointed governor. This he did in August 1854, and returned to the east, where he died about five years later, Curry receiving his appointment in November 1855.

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The legislature of 1853-4 enacted a militia law, constituting Oregon a military district, and requiring the appointment by the governor of a brigadier-general and other officers. Accordingly in April 1854, Governor Davis appointed J. W. Nesmith to this position, with E. M. Barnum, adjutant-general; M. M. McCarver, commissary-general; and S. C. Drew, quartermaster-general. The business of the session was, in the main, unimportant, though it is worthy of remark that four railroad companies received charters; but as the time was not yet ripe for the construction of railways, no steps were taken to carry out the intentions of the recipients.

In congress Lane was successful in the matter of appropriations, obtaining money for the expenses of the Rogue river war, as well as $10,000 to continue the military road from Myrtle creek to Scottsburg, and $10,000 in addition to a former appropriation of $15,000, for the construction of a light-house at the mouth of the Umpqua.

Governor Curry was the favorite of that portion of the democratic party known as the Salem clique. He was well suited to the position in which he was placed, and with its duties his experience as secretary had made him fully conversant. He was a Philadelphian by birth, but his father dying when he was only eleven years old, he was apprenticed to a jeweler in Boston, finding time for study and literary pursuits, for which he had a decided taste. In 1843, being then twenty-three years of age, he removed to St Louis, where, with other literary men, he published the *Reveillé*. Curry migrated to Oregon in 1846. His private life was without reproach, and his habits were those of a man of letters. His public career was marked by liberality, a courteous demeanor, and sterling probity of character. After living to see Oregon develop into a thriving state, he died July 28, 1878. Such was the man chosen to be governor of

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Oregon during the remainder of her territorial existence, the most trying period of her history.

Early in April 1855 Lane returned to Oregon and was again elected delegate by the democrats, notwithstanding that the whigs and know-nothings had united against the democracy, with ex-Governor Gaines as their candidate. The native American party was largely made up of the missionary and anti-Hudson's Bay company factions, which now took the opportunity furnished by the rise of the new party, to express their long-cherished antipathies toward the foreign element. Their intemperate denunciations, however, of foreign-born settlers and the catholic religion made them odious to right-thinking people, and the democratic party did not fail to give utterance to their honest disgust at the bigotry and cant with which their principles were promulgated.

In October 1854 Indian superintendent Joel Palmer, who had succeeded Dart, was able to inform the natives of southern Oregon that congress had ratified the treaties made at the close of the war of 1853, and by February 1, 1855, all lands between the Columbia and the Calapooya mountains, and between the sea-coast and Cascade ranges, had been purchased for the United States, the Indians agreeing to remove to other localities which were to be selected for them. The reservation finally selected was the country lying west of the Coast range.

No attempt had as yet been made to treat with the Indians east of the Cascade mountains for the purchase of their lands, but in this year Governor Stevens of Washington Territory, and Palmer, who had been appointed commissioners by congress, made treaties with the Nez Percés, Yakimas, Cayuses, Walla Wallas, and Umatillas. Separate reservations were assigned to the Nez Percés and Yakimas, while the Cayuses, Walla Wallas, and Umatillas were collected on one reservation in the beautiful Umatilla country. Palmer then treated with the John Day,

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Des Chutes, and Wascopan Indians, purchasing all the lands lying between the summit of the Cascade range and Powder river, and between the 44th parallel and the Columbia. A reservation was set apart for these tribes at the base of the Cascade mountains, directly east of mount Jefferson. Although the superintendent hoped that at last he had procured peace for Oregon, war was again brewing before midsummer, 1855, in the southern part of Oregon, tribes of the Rogue river nation being the immediate cause.

Hard-contested battles were fought, in which the natives were generally defeated, though the Americans had not always cause for congratulation. Fresh troops were called into the field by proclamation of Governor Curry, and a large force of regulars appeared upon the scene. General Wool visited Oregon and organized a campaign, and the war was bitterly carried on under the active operations of generals Lamerick and Ord. The volunteer companies were not idle meantime, and a multiplicity of battles was the result of their eager pursuit of the foe.

The last important conflict occurred May 27th and 28th, Captain Smith in command of Fort Lane, which had been established near Table rock, with eighty men, dragoons and infantry, being furiously assailed by Chief John on the bank of the Illinois, a branch of Rogue river. But for the timely arrival of Captain Augur, Smith's command would probably have been annihilated. As it was, he lost twenty-four men in killed and wounded, and Augur two men killed and three wounded, making a total loss of twenty-nine.

Superintendent Palmer labored hard for the public good, and during his term of office removed from the Willamette valley about 4,000 Indians. Nevertheless, being of the American party, no matter how honestly and conscientiously he worked, he could not please the democratic legislature, which in the spring of 1856 petitioned for his removal. He was suc-

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ceeded by A. F. Hedges, an immigrant of 1843. Palmer ran for governor of Oregon in 1870, but was defeated by L. F. Grover. He died in 1879 at his home in Dayton.

Very little business was transacted by the legislature of 1855–6, but during the latter year republican sentiments grew apace, and when the assembly met in December, though it was still largely democratic, there were enough opposition members to infuse life into the new movement which had been inaugurated to exclude slavery from a free territory. Another question which was evidently destined to arouse a close contest was the exclusion of free negroes from Oregon. At this session an act was again passed to take the sense of the people with regard to the holding of a constitutional convention.

Republican clubs continued to be formed, and on February 11, 1857, a convention was held at Albany, and the free state republican party of Oregon was organized, the main principles of which were announced to be: the perpetuity of the American union; resistance to the extension of slavery in free territory; the prohibition of polygamy; the admission of Oregon into the union only as a free state; and the necessity of all honest men, irrespective of party, uniting to secure the adoption of a free state constitution in Oregon.

In conformity with the instructions of the legislature, Lane had brought before congress a bill for the admission of Oregon into the union, and in the session of 1856–7 a bill authorizing the people to form a constitution and state government passed the lower house, but failed in the senate. Such was the position of affairs in the spring of 1857, the territory being half admitted as a state.

In June 1857 was held the most important election that hitherto occurred. The people were now called upon to lay the foundation of a state, and decide upon matters affecting the interests of the common-

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wealth for all time. Lane was again returned delegate to congress, defeating the free-soil democrat, G. W. Lawson, supported by the republican party ; and 7,617 votes were cast in favor of a constitutional convention, with 1,679 against it.

The convention assembled August 17th at Salem, and continued in session four weeks. More than one-third of the delegates were republican, but the debates on all subjects were conducted with fairness and deliberation. With regard to the all-important questions of slavery and the admission of free negroes, it was agreed to leave their decision to the people. Most of the provisions of the constitution framed by this convention were wise and politic, though a little more liberality might have been displayed with regard to the immigration of white aliens, which the legislature was granted the power to control, and also to the status of negroes, mulattoes, and Chinamen, who were excluded from the right of suffrage.

On November 9th the people decided at the polls upon the constitution and the other questions. About 10,400 votes were polled. The vote on the constitution resulted in a majority of 3,980 in favor of its adoption. Against slavery there was a majority of 5,082, and against the admission of free negroes into the territory one of 7,559 votes. The fact is that the democrats, when they found that they could not have the negro among them as a slave, were determined that they would not have him at all.

The legislature of 1857–8 labored under the disadvantage of not knowing how to conform its proceedings to the will of the general government. Although not yet admitted into the union, a portion of the members were in favor of regarding their assembly as a state body. After the transaction of some miscellaneous business, the legislature adjourned December 19th, to meet again on January 5, 1858.

In anticipation of admission to statehood, at the June election of that year a state legislature and

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government officers were chosen. There were three parties in the field, the Oregon democrats, the national democrats, and the republicans, the thorough organization of the first-named faction securing for it the victory. L. F. Grover was elected state representative to congress; John Whiteaker governor; Lucien Heath secretary; J. D. Boon treasurer; and Asabel Bush state printer. The district judges chosen were Deady, Stratton, Boisé, and Wait. The only republican elected was Mitchell, prosecuting attorney for the 2d district, A. C. Gibbs, H. Jackson, D. W. Douthitt, and B. Hayden being those chosen for the 1st, 3rd, 4th, and 5th districts. The state legislature consisted of twenty-nine democrats and five republicans in the lower house, and twelve democrats and four republicans in the senate. According to the requirements of the constitution, the state legislature met July 5th and chose Joseph Lane and Delazon Smith United States senators. On the 8th Governor Whiteaker was inaugurated, Judge Boisé administering the oath.

Oregon had placed herself in an anomalous position, for in four weeks' time it became known that she had not been admitted. It was, therefore, determined not to hold the September term of the state legislature, and as the territorial administration must continue during the suspension of the state government, the usual session of the legislature was held in December and January. Little business, however, was transacted, beyond amending a few previous acts, and preparing memorials to congress, with petitions respecting roads, the mail service, and other matters. On January 22d the assembly adjourned.

The admission of Oregon was warmly agitated in congress, and the democratic party, aided by certain republicans, finally succeeded in securing the passage of the enabling bill on February 12, 1859, the president approving it on the 14th, on which day Lane and Smith presented their credentials to the senate, and

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were sworn in, the seat of the latter becoming vacant in less than a month. Thus Oregon was at last enthroned as a sovereign state, the news of which event arrived toward the close of March.

The congressional act of March 3, 1859, extending the laws and judicial system of the United States over Oregon, provided for the appointment of one United States judge, Matthew P. Deady being chosen to fill that office. His former position as district judge was filled by P. P. Prim. As it was uncertain whether the decisions of the district judges would be valid under the act passed by the state legislature before the admission of Oregon, on May 16th Governor Whiteaker convened the legislature, which proceeded to complete the state organization and regulate the judiciary. Having passed a few acts, one of which called for a special election to be held June 27th for the choice of a representative to congress, the legislature adjourned.

On the 21st of April of this year the republicans met in convention, and having brought forward their platform, proceeded to ballot for a representative to congress, David Logan receiving a majority of votes. The democratic nominee was Lansing Stout, who at the election defeated Logan by only sixteen votes—a result which astonished both parties, and clearly indicated the waning influence of the democracy.

According to the provisions of the state constitution, the legislature and state officers were to be elected biennially, on the first Monday in June. As the first election was held in 1858, the next could not take place before June 1860. At that election George K. Sheil was chosen representative to congress, defeating Logan, who was again the republican candidate, by 104 votes.

The candidates for the senatorships were Delazon Smith and Lane, democrats; Judge Williams and J. W. Nesmith, independents; and E. D. Baker, repub-

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lican. The democrats soon realized the fact that they would be unable to return two senators without accepting Smith, who had fallen into great disfavor through his adherence to Lane, who was already dethroned in public opinion. Indeed, the legislature of 1859 had preferred to leave Smith's seat vacant rather than re-appoint him. Accordingly, Nesmith and Baker were elected, the latter for the short term.

Joseph Lane was aspiring to the presidency of the United States, and blinded by partisan zeal and the flattery of southern men, staked everything on the desperate hazard of being nominated at the national convention to be held at Charleston in 1860. At the same time he lent himself to an unscrupulous scheme said to be entertained by the senators of the Pacific coast, which was to establish a slave-holding republic, similar to the ancient republic of Venice, the plan, while it provided for an elective executive, vesting all power in hereditary nobles. Universal suffrage was to be repudiated, and labor was to be performed by persons of the dark races, who, being invited to California, were to be reduced to slavery. The discovery of this plot caused mingled indignation and alarm.

When the news of the proceedings of the Charleston convention, of the secession of the extreme southern states, and their nomination of Lane to the vice-presidency, reached Oregon, a strong revulsion of feeling set in among all of the democratic party who were not strongly pro-slavery in principle. Slowly and reluctantly the people realized that Joseph Lane had betrayed them. Before November 6th intelligence arrived of great republican victories in the north and west, and on that day the vote was cast for president. By the 9th it became certain that the state had gone republican. On December 5th the republican presidential electors, T. J. Dryer, W. H. Watkins, and B. J. Pengra met at Salem and cast the electoral vote for Lincoln, Dryer being appointed to carry the news to Washington.

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Tidings of the fall of Fort Sumter did not reach Oregon until April 30, 1861. By the same steamer which brought intelligence of the breaking out of hostilities, Lane arrived and met with a fitting reception. At Portland indignities were heaped upon him, while at Dallas he was hanged in effigy. He retired into obscurity, living for many years on a mountain farm with but a single servant. In 1878, at the persuasion of his children, he removed to Rosebury, Douglas county, and being heartily welcomed, in 1880, at the age of seventy-nine years, nominated himself for state senator, but was somewhat rudely rejected and reproved. He did not long survive this rebuff, which moved the aged politician to tears. His death occurred in May of the following year.

The first telegraphic despatches transmitted across the continent conveyed the intelligence that E. D. Baker, Oregon's republican senator, had fallen at the battle of Ball Bluff, on October 21, 1861. Baker was an Englishman by birth, being born in London, in 1811. When five years of age he came to America, where he learned cabinet-making, and afterward studied law in Carrollton, Illinois. For ten years he was a member of the legislature of that state, and in 1845 was elected representative in congress. During the war with Mexico he fought under Taylor on the Rio Grande, and later was present at the capture of Vera Cruz and the battle of Cerro Gordo, where he took command of General Shields' division, after that officer was seriously wounded. In 1852 he arrived in California, where he practised law, and thence removed to Oregon.

Baker's vacant seat in the senate was filled by the appointment of Benjamin Stark, by Governor Whiteaker. Stark's disloyal proclivities caused the senate to hesitate before admitting him, and after he had been allowed to take the oath of office in February 1862, he was finally impeached. He was not expelled, however, as his term ended with the meeting

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of the Oregon legislature in September. He was succeeded by Benjamin F. Harding, who was sworn in when congress met in December of that year.

By an order in September 1858 the Pacific coast was divided into the departments of California and Oregon, the latter under the command of General W. S. Harney, with headquarters at Vancouver. This change gave great satisfaction to the people at Vancouver, and Harney made himself at once popular by opening the Walla Walla valley to settlement, that section having been closed since 1855. During the following summer about 2,000 settlers took up claims in this and the Umatilla valleys.

In 1859 the Snake river Indians began to be troublesome, attacking immigrants and committing depredations on the reserves of the treaty Indians, and in the spring of 1860 two joint expeditions were sent into the country traversed by the predatory bands, under the direction of Major E. Steen. With the exception, however, of diverting the attention of the hostile natives from the immigrants of that year, he accomplished nothing, the Indians successfully eluding him. In September the companies were distributed among the several posts, but no sooner were they settled in their quarters than Major Grier, in command at Fort Walla Walla, was notified by the Indian agent on the Umatilla, that between Salmon Falls and Fort Boisé about fifty persons had been killed, or scattered throughout that desolate region to perish of starvation.

Before the conclusion of the civil war fortifications were erected at the mouth of the Columbia, one on Point Adams on the south side of the entrance, named Fort Stevens, after General Stevens, who fell at the battle of Chantilly, and another on Cape Disappointment, on the north side, which, in 1874, was called Fort Canby, in honor of General Canby, who was assassinated by the Modocs in the war of 1872–3.

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In 1862 the republicans carried the election of all their principal candidates by a large majority, Addison C. Gibbs being chosen governor. Benjamin F. Harding was elected senator in September, to succeed Stark, whose term would soon expire. During the administration of Gibbs many important matters were subjects of legislation. The legislature of 1864 passed a specific-contract law, which provided that no money could be paid in satisfaction of a judgment other than the kind specified in such judgment, and that gold and silver coins of the United States should be received at their nominal values in payment of every judgment, decree, or execution. At a special session in 1865 another law was enacted which removed every impediment to the exclusive use of metallic currency. In 1862 an act was passed for the location of the lands donated to the state by congress, amounting to nearly 700,000 acres, Governor Gibbs being appointed commissioner to locate such lands and designate the purposes to which they should be applied. The boundary line, moreover, between Oregon and Washington, on the 46th parallel, from the bend in the Columbia to Snake river was surveyed; and much was done to further the construction of public roads. A code of civil procedure was prepared by a commission consisting of Deady, Gibbs, and Kelly, and accepted in 1864; in 1866 Chinese miners were required to pay a license of four dollars per quarter.

The amendments to the constitution of the United States abolishing slavery and extending the right of suffrage to Africans naturally interfered with the laws of Oregon against negroes. The amendments, however, were adopted by joint resolution December 11, 1865, and the clauses of the constitution of Oregon, discriminating against the negro as a citizen of the state, were rendered void. Governor Gibbs' term of office expiring in 1866, George L. Woods was chosen at the election of that year to succeed him, defeating James K. Kelly, a democrat of the old school.

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In 1865 life in Oregon was unsafe on account of the Indian raids, and early in the spring the troops were called upon to take the field. Colonel Curry had succeeded to the command of the military district of Columbia, owing to the death of General Wright, who was drowned while en route to Vancouver to assume the command, the steamer *Brother Jonathan*, on which he had taken passage, foundering at sea. Curry distributed the troops at nine different camps scattered over western Idaho and eastern Oregon, but for all this precaution the country still suffered from depredations.

Before Curry's plan for a winter campaign could be tested, orders were received to muster out the volunteers, and by June, 1866, the whole of that force was disbanded with the exception of company B of the 1st Oregon cavalry, and company I, 1st Oregon infantry. In February of that year Major-general Steele took command of the department of the Columbia, with no better success than his predecessor. All through the summer the ubiquitous Indians continued their depredations, attacking lonely houses, driving off the horses and cattle of the stock-raisers and of the stage-lines and transportation companies, murdering white men, and killing Chinamen, between fifty and sixty of whom were slaughtered at Battle creek in May. Having struck their blow the raiders generally succeeded in escaping with their booty to some secure retreat.

In the autumn General Halleck, in command of the division of the Pacific, visited eastern Oregon going to Fort Boisé; but travelling with an escort on the well-protected Chico route, at a time when the Indians were occupied in gathering seeds and roots for their winter supply, he saw nothing to cause apprehension. On October 7th a joint resolution was passed by the legislature to the effect that, if the general government did not send troops for the protection of eastern Oregon within thirty days from

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that date, the governor should call out a sufficient number of volunteers for that purpose.

As the year drew to a close Lieutenant-colonel George Crook was ordered to relieve Major Marshall who was in command of the Boisé district. All the most efficient officers had come to the conclusion that the most favorable time to fight the Indians was during the winter. About the middle of December Crook took the field, and during the succeeding campaigns, which were continued into midsummer of 1867, he inflicted several severe blows upon the Shoshones. In these successes he was greatly aided by two companies of Indian allies, each fifty strong, which had been organized by Governor Woods with the permission of the general government.

In August 1867 some changes were made in military dispositions, and Crook was assigned to the district of the lakes, comprising Fort Klamath, and camps Watson, Warner, Logan, and Harney. In the last days of September, Crook engaged the enemy after a difficult march of four weeks, storming an almost impregnable stronghold on high lava bluffs overlooking the south branch of Pit river in California. Though he succeeded in dislodging the enemy after some hard fighting, the Indians effected their escape by subterranean passages. The great extent of the fissures and caverns made it too dangerous to attempt an examination of them, and on the 30th Crook moved toward Camp Warner, where he arrived October 4th.

On November 23d Steele relinquished the command of the department of the Columbia, and was succeeded by General L. H. Rousseau. Steele was a graduate of West Point, had served under Scott in Mexico, and was twice promoted for gallant conduct. During the civil war his services were similarly recognized, and at its conclusion he held the rank of brevet major-general. On leaving Oregon he was granted an extended leave of absence, but shortly afterward died suddenly of apoplexy in San Francisco.

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All through the winter of 1867–8 the desultory warfare was continued, the Indians, however, being continually harassed, until, finally, the principal chiefs sued for peace. On June 30, 1868 a council was held, at which Crook made his own terms. "Do you see any fewer soldiers than you did two years ago?" he asked. "No; there are more," was the reply. "Have you as many warriors?" "No; not half so many." "Very well;" said Crook, "that is as I mean to have it until you are all gone."

While the Shoshone war was in progress, trouble was brewing on the boundary question with Californfornia. Ever since Frémont's exploration, the Modocs and their head chief, Sconchin, had proved themselves implacable enemies of the white race, and had made themselves a redoubtable foe of the latter. In 1864, however, E. Steele, Indian superintendent of California, made a treaty with this chieftain, then an old man, and also with Captain Jack; the former observed the conditions faithfully, living within the limits of the reservation; but the latter could not be kept thereon. Indian superintendent Huntington died in 1868, and was succeeded by A. B. Meacham, who, in December 1869, induced the refractory chief to come upon the reservation. But in the following spring Captain Jack resumed his roaming life, and for two summers his followers ranged up and down among the scattered farms, visiting the houses in the absence of the men, frightening women, and committing various outrages.

In 1870 General Crook was relieved by General E. R. S. Canby, and sent to fight the Indians of Arizona, for which purpose the military posts in Oregon were almost depleted. Under these circumstances, Captain Jack became still more defiant. He frequently visited the reservation, boldly declaring that he intended to go where he pleased, and finally killed an Indian medicine man because he failed to save the lives of two members of his family. Attempts

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to arrest him failed through the interference of influential white friends in Yreka, where Jack was accustomed to indulge in dissipation. Negotiations likewise failed; conferences were useless; and it was finally decided that force must be used.

After committing more depredations, Jack took up his position in the lava beds, where he was beseiged by a united force of regulars and volunteers. Through subterfuge he obtained a conference with representatives of the government and people, at which General Canby and E. Thomas were treacherously slain, and Superintendent Meacham wounded. There was no more talk of peace after this; Jack and his band were hunted to their death.

The political status of the people during the trying period of Indian warfare gradually underwent a change until the democratic party gained the ascendency. This was owing to the immigration of southerners after the conclusion of the civil war. In 1866 Rufus Mallory, republican candidate for representative to congress, defeated his opponent by a majority of only 600 votes; but in 1868 David Logan, republican, was beaten by Joseph S. Smith, democrat, by 1,200 votes. In the same year, also, the democracy had acquired its former dominancy in the legislature, there being nearly twice as many democrats in both houses as there were republicans.

In 1870 the party again displayed its ascendency, by the election of L. F. Grover as governor. Grover had been president of the democratic organization of the state ever since 1864; he was reëlected governor in 1874, defeating J. C. Tolman, republican, by a small majority. In 1876 he was chosen United States senator, defeating Jesse Applegate, and in February 1877, having resigned the governorship, took his seat in the United States senate, S. F. Chadwick succeeding to the gubernatorial office.

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When Grover assumed office the financial condition of the state was so prosperous, that the treasury contained funds sufficient to defray the expenses of all the departments of government for the next two years, less about $6,000. During his term various measures were adopted, all important to the welfare of the state; an agricultural college was established, as also a university, and provisions were made for the construction of a state capitol. These and other progressive measures made Grover's administration popular, while the Modoc war, which occurred during his term of office, gave to it additional éclat. The improvement in the affairs of the government was substantial and noteworthy, and at a later date credit was willingly conceded to the administration, the course of which had been temporarily clouded by unfounded charges and complaints. A full description of the governor's administration and career will be found in a later chapter of this volume.

In 1878 the republicans again failed to elect their candidate, C. C. Beekman, who was defeated by W. W. Thayer. During Thayer's term, the state debt was entirely liquidated, and the financial condition of the state rendered sound and healthy. The new governor, a native of Lima, New York, was admitted to the bar at Rochester, in March 1851. In 1862 he went to Oregon, removing in the following year to Idaho, attracted by the mining excitement, and there became a member of the legislature, returning in 1867, when he settled in East Portland and formed a law-partnership with Richard Williams.

At last in 1882 the republicans again came to the front, electing Z. F. Moody as governor over Joseph H. Smith, by a majority of 1,452 votes, and sending to congress as senator Joseph N. Dolph, after a prolonged political contest with the democracy.

Zenas Ferry Moody was a New England republican, and arrived in Oregon in 1851. He was a member of the first United States surveying party in the Willamette valley, and continued in that service for

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two years. In 1856 he was appointed inspector of United States surveys in California, returning to Oregon in 1862. After engaging in a variety of enterprises, in which he proved himself a capable business man, he was elected in 1872 to the state senate, and in 1880 to the lower house, of which he was chosen speaker.

Senator Dolph arrived in Oregon in 1862, where his talents soon made him prominent in his profession as a lawyer. He was educated at Genesee college, and was a native of New York. At the time of his election, being then forty-seven years of age, he was attorney for the Northern Pacific railroad company, of which he was also vice-president.

Moody's administration was marked by faithfulness and care, one absolutely free from abuses, and there are none among his predecessors who have left a more stainless record. He was succeeded in 1887 by Sylvester Pennoyer, a democrat, during whose régime a bill was introduced by the school land commissioners, whereby nearly a million dollars would be saved to the school fund through the recovery of its lands from fraudulent claimants. In the election of the following year, the free-trade issue resulted in a large republican majority, Herman being chosen congressman as successor to Dolph. At that date the finances of Oregon were in the soundest possible condition, with a bonded debt of less than $2,000, and some $54,000 in outstanding warrants.

In conclusion, it may be remarked that Oregon is one of the best governed of all the Pacific states, not only in a financial point of view, but in the tone and character of her legislation and her law-makers. In the halls of her legislature at Salem are never heard such unseemly squabblings and bickerings as have been witnessed in the capitol at Sacramento. Never is the members' time and the people's money frittered away in frivolous and interminable discussions, in the discussion of measures which are either

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useless or a positive injury to the public. The laws enacted by Oregon's statesmen are, with rare exceptions, wholesome and beneficial; at least, they are never vexatious, so that, as with all well-governed communities, the yoke sits so lightly upon them that it is barely felt at all.

And now, having completed this brief sketch of the political history of the state, I will proceed to relate at greater length the career of some of her leading statesmen.

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CHAPTER XXI.

LIFE OF HENRY W. CORBETT.

A Builder of Empire—Ancestors and Parents—Boyhood—Business Ventures in Oregon—The Northern Pacific Railroad—The First National Bank—Portland Board of Trade—Boys and Girls' Aid Society—Corbett, Failing & Company—Benefactions—Political Career—Marriage—Children—Residence—Appearance and Character.

As I advance in the biographical-historical or historical-biographical study of the Pacific coast, the more attractive it grows and the more interesting it appears, and I am not less disposed to think favorably of my plan than when I conceived it, though I find it even better in execution than I had regarded it in theory. This fact is so assuring that, had I ever advanced any claims to credit for the plan which came unsolicited into my mind, I could cheerfully relinquish such claims. But I have never had a moment's apprehension as to the advantage and charm of studying history through the medium of actual living history-makers. I have enjoyed constantly a fixed and glowing faith in the subject. I have been asked why call plain men, citizens of the commonwealth, builders? If I could have found a title more significant of creation, control, manhood, character—these terms used in the fullness of their truth and spirit, I would have employed it, but let the text, which is a web of facts, speak and answer the question for itself.

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CHAPTER XXI.

LIFE OF HENRY W. CORBETT.

A BUILDER OF EMPIRE—ANCESTORS AND PARENTAGE—BOYHOOD—EARLY VENTURES IN OREGON—THE NORTHERN PACIFIC RAILROAD—THE FIRST NATIONAL BANK—THE BOARD OF TRADE—BOYS AND GIRLS' AID SOCIETY—CORBETT, FAILING & COMPANY—BENEFACTIONS—PORTRAIT—CAPPER—MANNERS AND CHARACTER—RESIDENCE—APPEARANCE AND CHARACTER.

As I advance in the biographical-historical or historical biographical study of the Pacific coast the more attractive it grows and the more inviting it appears, and I am not less disposed to think favorably of my plan than when I conceived it, though I find it even better in execution than I had regarded it in theory. This fact is so assuring that had I ever advanced any claims to credit for the plan which came unsolicited into my mind, I could cheerfully relinquish such claims. But I have never had a moment's apprehension as to the advantage and charm of studying history through the medium of actual living history-makers. I have enjoyed constantly a fixed and glowing faith in the subject. I have been asked why call plain men, citizens of the commonwealth, builders? If I could have found a title more significant of creation, control, manhood, character—these terms used in the fullness of their truth and spirit, I would have employed it, but let the text, which is a web of facts, speak and answer the question for itself.

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Little did the pilgrim fathers realize what they were doing, and with equal truth may this remark be applied to the pioneers of Oregon. By these men and by those who followed them while yet its settlements were in their infancy were laid, broad and deep, the foundations of a state which is destined beyond a peradventure to become one of the richest and most steadily prosperous sections of the union. In each of the two last decades her population has almost doubled, and there is no indication that this rate of increase will be diminished for many years to come, for should it continue for half a century, there will still remain a large area of unoccupied land. Considering her great extent of fertile soil, her vast and accessible deposits of coal and iron, her boundless forests with all their varieties of merchantable timber, her thousand miles of inland navigation, her abundant water-power, and her other manifold resources, it may, indeed, be said that she is only on the threshhold of her career. That these resources have already been largely developed, appears from the fact that in 1881, with a population of less than 200,000, her exports already exceeded $20,000,000.

For Portland it is claimed that her inhabitants possess more wealth *per capita* than those of any other city in the United States, and this is no cause for wonder, considering her position as a business centre, as a seaport and railroad terminus, and as the seat of manufacturing and other industrial enterprises. For 1880 the value of her manufactures and her wholesale commercial transactions exceeded $30,000,000, and they are now probably not less than $50,000,000 a year. With capital and business ability the metropolis is amply supplied, and it is worthy of note that the proportion of wholesale to retail houses is unusually large.

Prominent among the men by whom these results have been accomplished is Henry Winslow Corbett, of the well known firm of Corbett, Failing, and Com-

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pany, who, though not among the earliest pioneers, has, since the year 1851, been closely identified with the interests of his adopted state. But it is not alone as one of the leading merchants and citizens of Oregon that this gentleman deserves more than a passing notice in these pages. As a banker, a railroad man, a philanthropist, a scholar, a journalist—howsoever one may reconcile these latter vocations—and above all as a statesman, his name will long be remembered among the list of those who have been foremost in contributing to her prosperity and greatness.

The progenitor of the Corbett family, as far back as the record goes, was Roger Corbett, a military chieftain, who won distinction and lands under William I., in the conquest of England. William the eldest son of Roger, was seated at Wattesborough. His second son, Sir Robert Corbett, baronet, had for his inheritance the castle and the estate of Caus, with a large portion of his father's domain. His son and namesake, Robert, went to the siege of Acre with Richard I., bearing for arms in this campaign two ravens, which have been his descendants' crest ever since.

The Corbetts all along the line were noteworthy men, and more than one member of the family won for themselves distinction in the affairs of church or state, while others adorned the learned professions of their day. One of the original stock from the female side holds a seat in parliament at this time. The Corbetts in America are their lineal descendants, the connection being made quite clear by the family record kept at Mendon, Massachusetts. The less remote ancestor of the subject of this study, Henry Winslow Corbett, came to New England early in the seventeenth century. His grandfather and father were both named Elijah Corbett. His mother's maiden name was Melinda Forbush. He was born at Westborough, Massachusetts, February 18, 1827. His father was a mechanic, and the first manufacturer of edge tools in

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that part of the country, a man of skill and inventive ability. His parents were persons of respectability, intelligence and marked features of character. That their son's course of life had been greatly influenced by inheriting from them valuable mental and moral qualities there can be no doubt, while he is indebted to them for wholesome precepts and example also.

Of their eight children, of whom six grew up, Henry Winslow was the youngest son. His early boyhood was spent in Washington county, N. Y. He received his first lessons in the common schools, which were noted for their thoroughness. Later he attended Cambridge academy, an old and reputable institution. He took the regular academy course, and then held for a year a clerkship at Salem, the county seat. When seventeen years of age he went to New York city, and engaged in the dry goods business, continuing in it until January 1851. He had established himself in the confidence of the business men, and was intrusted with a stock of goods, shipped around the Horn to Portland in October 1850, by two parties with whom he had been associated. The agreement was that he should there devote three years to merchandising, and then return and divide the proceeds; the object being to gain a competency, and then withdraw. He sailed from New York January 20, 1851, on the *Empire City*, and in the new ship *Columbia* from Panamá, arriving at Astoria March 4th. Thence he took passage on a small river steamer, also named the *Columbia*, for Portland, where he landed the following morning, after passing the night on deck, for in the north-west state-rooms were luxuries as yet unknown. Soon after his arrival he made a trip through the Willamette valley on horseback, stopping at Oregon City, Salem, and Albany. The first two were even then places of considerable importance, although the entire white population of the territory, which at that date included Washington, Idaho, and a part of Montana, did not exceed 15,000

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souls. At Oregon City Mr Corbett met with John McLoughlin, formerly the chief-factor of the Hudson's Bay Company, with George Abernethy, the first governor of Oregon under her provisional constitution, and with other personages who have since become historical.

Returning to Portland, he at once applied himself to business with all the zeal and earnestness that have stamped his career in life. The time was in one respect well chosen, for during this year there arrived, direct from the eastern states, thirteen vessels laden with merchandise, thus making Portland the commercial emporium of the north-west. Though the market was somewhat overstocked, gold was plentiful, or rather gold-dust, for many of the Oregon pioneers, who were among the earliest and most successful miners in California, had now returned with plethoric purses, whose contents they distributed with lavish hand. Moreover, that state depended, in a measure, on her northern sister for supplies of lumber, flour, beef, pork, and other products, the proceeds of which swelled the volume of circulation.

Within fourteen months Mr Corbett had disposed of his entire stock of goods, and by the advice of his partners he returned, with $20,000 as the net profits for division. He then joined his partners for a year in business in New York, at the same time holding an interest with his successors in the business at Portland, but he saw that Portland was a better field for him, and determined to do business in his own name, returning there to make that city his home. He preferred it as the base of his operations, rather than take the chances in a speculative market like San Francisco, for he was accustomed to legitimate business. He is the oldest merchant in Portland, and perhaps in Oregon.

Since his establishment he has always been among the prominent men of the north-west in enterprises looking to the development of the country, and he

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has grown up with it. He was connected with and interested in those early transportation enterprises on the rivers that have been of such great influence in enlarging natural resources, revealing new capabilities, increasing the population and advancing civilization.

He was an earnest advocate of the project to build the Northern Pacific railroad, and while in the senate labored with diligence to further that result, having no personal interest to subserve other than the general good of the state and the north-west. After the failure of Jay Cooke to carry through this undertaking, and some years after the reorganization of the company, when Henry Villard undertook the completion of the road, Mr Corbett took a pecuniary interest as well as a general interest in the enterprise of which Mr Villard was the promoter. He is largely interested in banking. In 1869 he and Henry Failing obtained the control of the First National bank, with the view of making it a stronger feature in the financial affairs of the city and state. Established in 1865, it was then in its infancy, but has grown in magnitude ever since, and has become the strongest national bank in the Pacific northwest, as it is the oldest. Henry Failing has been president ever since they took control, and Mr Corbett vice-president since his return from the senate and a seven months' trip in Europe. From this time on he devoted himself principally to local interests.

Mr Corbett's active brain originated the idea of national gold banks as suited to the currency of this coast, but as greenbacks rapidly rose to par his happy invention was useful only for the period. He was elected president of the Portland board of trade soon after its organization, and continuously thereafter for a number of years. The board has been a valuable factor in disseminating information on all important matters pertaining to the best interests of the commercial metropolis and the state, calling the attention of the government to needed internal improvements.

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He has been connected prominently with the board of immigration, and has been called to act as president of various associations here—notably the Boys and Girls' Aid Society, the beneficent purpose of which is to secure a stay of punishment in the case of children guilty of their first misdemeanor or crime, with a view to saving them from the demoralizing effects of companionship with degraded convicts in the county jails or state prison. Some five years ago a new children's home was built in an eligible part of the city, and every care taken to surround the unfortunates with good influences, and save them from fatal degradation. The noble labor of providing for them a cheerful home has met with happy results, largely through the encouragement, coöperation, and material support of Mr Corbett, and citizens who shared his humanitarian views.

While in the senate he secured the appropriation for the United States building at Portland, used as post-office, custom-house, and court-house; also for needed improvements of river and harbors. In 1866 he secured the government contract to carry the mails from Portland to Lincoln, California, 640 miles, and stocked the route with four-horse coaches. When elected to the senate he relinquished his contract, as not compatible with his obligations as a public servant, and sold it out to others. At the present time he is president of a company organized to complete the construction of a grand hotel, most substantial in structure and elegant in finish—to be second in size only to the celebrated Palace hotel of San Francisco—a work begun on a magnificent scale by Henry Villard, but stopped when he fell temporarily from the pinnacle of his greatness in this section. The building will receive the fitting name of "The Portland." To insure its completion, $500,000 has been raised. Mr Corbett, Mr Ladd, Mr Failing, and Mr Lewis subscribing a little over one-half the stock among themselves.

Mr Corbett's original venture in Portland in mer-

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chandising has developed into the largest wholesale hardware business in the city, conducted under the firm name of Corbett, Failing, and Company. He has erected some of the first business blocks in the city, and has otherwise kept his wealth in motion, both on the score of business policy and for the advancement of the general good of the community. He has in no sense hoarded his riches. He has evinced his public spirit, as the record shows, by taking a pronounced and active part in politics, commerce, education, and religion, in every great and good movement promotive of better government, better business, better schools, better morals. Where the call upon him has been for coöperation in private enterprises on which public prosperity depends, he has responded readily and wisely; where gifts have been necessary he has always given, not ostentatiously and for the name of it, but in the spirit of genuine charity, which is discriminating. That he might always have the means to do this, it has been the rule of his life to set aside regularly one-tenth of each year's earnings with which to meet the charitable demands of the next. This part of his income he does not regard as his own. It is in his stewardship only. The outlay has been returned to him, doubtless, however, in material results flowing back to him from his beneficence, and still more so, in the possession of a mind conscious to itself of right. It is his religion, and the world would not be what it is to hosts of the unfortunates if religious professions were thus made generally good in practice. He was the first to close the doors of his store on Sundays in 1851—a startling innovation in those pioneer days—but this was in the line of right and duty with him. He lost no custom by it; he simply established himself in the confidence of his customers. He was reared in the presbyterian doctrine, and has proved his faith by his life and his works. His walk and conversation among men is an earnest of what he is in the church. His

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religion is perhaps wider than his creed, for his sympathy and his substantial encouragement go out to all associations, denominational or otherwise, the aim of which is to improve mankind. Those two great sources of moral and mental amelioration, under whatever name or outward seeming, the churches and the schools, knew him as a friend in need.

In politics Mr Corbett grew up in the whig tariff school of Henry Clay. On the formation of the republican party in Oregon he became one of its leaders, and was elected chairman of the state central committee, and delegate to the Chicago convention of 1860, by which memorable body Abraham Lincoln was named for the presidency. Being unable to reach there in time, Horace Greeley represented Oregon by proxies from Mr Corbett and Leander Holmes. All students of the political history of the United States know the conspicuous part played by Mr Greeley on this occasion, and realize the momentous consequences of his activity in defeating Mr Seward for the nomination, his strenuous opposition to this candidate resulting in the choice of Mr Lincoln as the standard-bearer of the party. Oregon was thus indirectly made a conspicuous factor in this nomination, Mr Greeley being wisely chosen to represent the Oregon delegates, who could not be personally present. The fight was hard and close, and these two votes, supplemented by Mr Greeley's indefatigable efforts, and backed by the power of his great paper, *The Tribune*, carried the day; so that through him, as its chosen instrument, Oregon became a factor in the history of national politics.

Mr Corbett attended the inauguration of Mr Lincoln March 4, 1861. During his trip east there occurred two incidents, which are the outgrowth of his first participation in general politics, and serve to show the breadth of his views and the keenness of his insight into the requirements of the emergency of the times. There was a lull before the storm. The

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south had decided to withdraw from the union, and the north was divided on the question. Instant action was necessary, but no one seemed to know what was best to be done to determine the issue.

On the 11th of March, 1861, he met Thurlow Weed at the Astor house. Mr Weed, who was understood to be the power behind the throne (at least of Mr Seward, who was then Mr Lincoln's leading counsellor), and Mr Corbett fell into conversation about the state of affairs. Said Mr Corbett: "What does the government propose to do in the matter of giving aid to Major Anderson at Fort Sumter?" Mr Weed replied: "General Scott is of the opinion it will take 25,000 men to put down the rebellion at that point, and he has concluded, therefore, not to do anything." "If this be so," remarked Mr Corbett, "why not send a vessel loaded with provisions to the relief of Major Anderson, and notify the rebels that if they fire on this government ship they will do so at their peril." Mr Weed's quick response was: "I think that's a good idea." Mr Corbett that day sailed for Oregon by the way of Panamá, upon his arrival there he was surprised to find that the plan proposed by him had been pursued by the government. It is possible that some other active brain had originated the idea formulated by Mr Corbett; but if so, the coincidence is very remarkable. Whether the credit for exclusive originality is due to Mr Corbett will, perhaps, never be determined.

Be this as it may, the suggestion was of extreme value. The rebels fired upon the *Star of the West*, and the echoes of the cannonade had scarcely died out before the north realized the danger of delay, and rose up as one man to preserve the integrity of the union. The south were the aggressors; the north were put on the defensive.

The other incident took place shortly after Mr Lincoln's inauguration. Calling on Mr Greeley, whose idea was, "Let our erring sisters depart in

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peace," Mr Corbett, who has always possessed the courage of his convictions, and whose political relations with the great *Tribune* editor were such that he felt warranted in expressing himself plainly, took issue with Mr Greeley. Said he: "It is my conviction that the war should be prosecuted with the utmost vigor to coerce the states that have placed themselves in open hostility to the government. It will never do to concede that the southern states can withdraw from the union. If this be granted, what would hinder the western central states from going out in the same way? According to what principle could New England or the Pacific states be restrained from setting up separate governments for themselves? The republic would be broken into fragments with all the disadvantages attendant upon a multiplicity of petty sovereignties, weak and jarring, without sufficient strength to repel invasion, or to command respect abroad. The next issue of the *Tribune* contained a leading article headed, "On to Richmond."

From the first intimation of a struggle between the states Mr Corbett was an uncompromising union man, and while chairman of the republican state central committee, he put forth every effort to induce all loyal men in Oregon to combine against the heresy of secession. To this end a union convention was held in Eugene City April 9, 1862. In the call signed by the central committee, of which he was chairman, a large number of republicans and Douglas democrats from all parts of the state joined. The result was that a union ticket was nominated, divided about equally between the republicans and the democrats. This judicious measure was adopted, though opposed by some of the radical wing of the republican party, for the question was simply one of union or disunion. The state, which had hitherto been decidedly democratic, was thus saved to the union beyond all doubt, and eventually became permanently republican.

Mr Corbett was solicited to accept the nomination

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for governor, but, having no personal ambition in this direction, he declined the honor. In the fall of 1866, without any effort on his part and without any special desire for preferment, he was chosen to the United States senate to succeed J. W. Nesmith. While in the senate Mr Corbett won a reputation for himself by his thorough practical knowledge of financial affairs, and was ever opposed to the financial heresies of the period following the conclusion of the war. The soundness of the views which he then expressed has been fully demonstrated, for the principles, if not the identical measures which he advocated, have since become a part of the policy of the government. His cogent arguments on the resumption of specie payments; on the funding of the national debt at a lower rate of interest and longer time; and his determined opposition to all plans that savored in the least of bad faith or repudiation, can be understood best as presented in his own words, recorded in the archives at the national capital, and published in the *Congressional Globe*, December 6th and 13, 1867; March 11, 1868; February 11, 1869; March 7, 1870; March 11, 1870; March 19, 1872.

On the floor of the senate he had to contend with some of the most experienced and wisest legislators of the period, several of whom are still conspicuous in national affairs. He fought, however, for good faith and the right, and time has proved that his judgment was correct in every particular, not only according to the logic of morals, but on the ground of expediency in finance, as well. An extract from his great speech delivered in the senate March 11, 1868, will show the integrity of his character, the power of his reasoning, and his eloquence in debate. Mr Corbett arose to explain the notice he gave that he would offer an amendment to the funding bill then under consideration, so as to make the bonds in question redeemable in coin after twenty years instead of ten. His remarks turned upon the bold statement of a dis-

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tinguished senator, in reply to a question put to him as to what he would do provided the then bondholder would not accept the five per cent bond, that he, for one, would vote to pay off the 5–20 bonds in legal tenders, providing the holders did not see fit to exchange their securities for a bond bearing one per cent less interest than those then held by them. Said Mr Corbett:

"With such a proposition I cannot agree. The solemn obligations resting upon me as a senator, and the solemn obligations resting upon the government in this crisis of our financial struggle forbid. A struggle I say, because it is a struggle with ourselves whether we will pay our bonds as they mature, in dollars or with our irredeemable notes, made a legal tender under the pressure of war, and, as a war measure, to be redeemed with gold at the close of the war, or funded into United States bonds bearing interest that should be equivalent to gold.

"It is not for the present that I speak, but it is that great, grand, and glorious future that I see for my country looming up before me, powerful and mighty as she is to be, destined to withstand, as one day, she will, all the governments of the crowned heads of Europe, if occasion requires. I would lay our credit deep and broad not for one century, but for a hundred centuries. . . . . .

"Let us keep our armor bright and our credit untarnished and look to time, to the great future, as our remedy for this burden. To say that we cannot pay the interest on this debt is folly; there is no such sentiment in the American heart, but, on the contrary, they are determined to do and accomplish what no other nation has the internal wealth and vigor to do. Many croakers said that we could not put down this rebellion; the people said: 'We will try.' All the people now ask is that you should try to pay the debt. As for myself, I never had a doubt that we could put down the rebellion. Neither have I had a doubt but that we can pay this debt in dollars.

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Public credit should be, 'Like Cæsar's wife, above suspicion.'

"Therefore let us not crown this temple, hewn by the sweat of so many brows, reared by the blood of so many brave lads, with the capstone of repudiation. Let us do nothing as a great and noble and suffering people that shall detract from the honor of those lying silent and cold in their blood-bought graves, with naught but their country's banner over them. To me, Mr President, my duty is plain; my duty to the men that came forward to supply our suffering army, to succor our noble boys, in the day of the national darkness and despair, and to the capitalists of Germany, of Frankfort, that took our securities and spewed out the rebel bonds, and gave to us money, the sinews of war, to assist us in maintaining the life of the nation. I need not the example of other nations to tell me what is right between man and man, or between nation and nation; it needs not the shrewd argument of a lawyer to tell me what is due to my creditor; if there is any one thing that I regard as more sacred in life, after my duty to my God, it is to fulfill all my engagements, both written and implied, and nothing shall drive me from this position."

Thus from the liberal standpoint taken by Mr Corbett, the nation's honor was bound to meet the indebtedness incurred by the expenses of the war, "not," as he expressed it, "according to the strict advantages that might be taken of the law, but according to the implied obligations." To the firm attitude which he and others assumed on this long-vexed question, and to his own efforts as much as to those of any single individual, may be attributed in a measure the preservation of the national credit, and the fact that the country is now more grievously perplexed with the magnitude of its surplus than with the magnitude of its debt.

In the discussion on the currency bill on the 11th of February 1869, to which Mr Corbett offered several

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amendments, he also displayed powers of rhetoric and of close, logical argument, which showed him to be at least a match for the veterans of debate. His speech on this occasion was one of his greatest efforts, and without some mention of it this sketch of his career would indeed be incomplete. Pleading for a speedy return to specie payments, he said: "We cannot shut our eyes to the evil effects of our inflated and demoralized currency; its ultimate effects upon our working population in confining the production of their labor to a home market. The energy of our people is not to be circumscribed. We are young, enterprising, and seek to be the greatest producing, as well as the greatest commercial, nation in the world. We are not satisfied to sit down, like other inactive, non-progressive countries, and consume all we produce. We must expand and control the trade of other countries. Our present currency is fixed by law; it has no power of expansion as compared with the currency of the world; consequently I contend that it is the worst possible currency; it is a fixed amount, capable of being controlled by designing speculators, and local in its character, incapable of being circulated abroad and incapable of being increased from abroad."

He then called attention to the enormous exportation of gold, caused by the fact that other countries had no use for our irredeemable paper. For the year 1868, when greenbacks were quoted at from 30 to 40 per cent discount, exports of gold exceeded imports by the sum of $80,000,000, and this because we practically said to the world: "You cannot have anything we produce unless you pay us, say $1.36 for what is worth $1 in other countries." "We all know," he continued, "how difficult it is to induce a man to sell a piece of property that cost him $136,000 in what he counted dollars, for $100,000 in such money as other countries count dollars. This feeling exists with the farmer, the manufacturer, and those engaged in commerce, and nothing can remedy it un-

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til you return to specie payments. You may stimulate trade for a little time by a fresh issue of irredeemable paper. It goes to the country; it is as plentiful as rags, and finally it approaches the purchasing power of rags, and thus you have irredeemable rags for legal tender."

As to the system then adopted by the government of throwing gold upon the market whenever it rose above a certain price, Mr Corbett considered it to be hurtful in the extreme, especially to the people of the Pacific coast, who formed the gold-producing section of the community. Though they had not complained of the treasury thus depreciating the value of one of their leading products, and compelling them to sell it for less than it was worth, they had none the less good reason for complaint. What, for instance, would the farmer say, if the government were to adopt the same policy as to the commodities which they produced. In conclusion he remarked: "We are willing even to bear this unjust discrimination against the products of that portion of the country, if it tended to bring this portion of the union back to a sound healthy condition, but its tendency has a contrary effect. It is driving all the specie out of the country to Europe and to China. We are further from specie payments than a year ago. Stop the sale of gold by the treasury, and let it seek its level like all other products of the country, without interference by government to bear it down or force it up; let it assume its proper function. The world has chosen the precious metals as the standard, and I think we cannot revolutionize the world in this respect. Specie will most likely remain our standard, whatever other theories we may present. We may keep down the price for a time by unnatural appliances, but eventually, like water, it will find its level."

In the debate on the funding bill, which passed the senate in amended form on the 11th of March, 1870, authorizing the issue of $1,200,000,000 worth

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of bonds, in three equal portions, bearing interest at five, four and a half, and four per cent, and all redeemable in gold, Mr Corbett made many pertinent remarks. At this date the six per cents were still below par, and greenbacks at a heavy discount, while there were few who believed that bonds bearing a much lower rate of interest could be floated on the market at their face value. In the original bill it was proposed to convert $356,000,000 worth of legal-tender notes into four per cent bonds, thereby increasing the interest on the public debt by some $14,000,000 or $15,000,000 a year. Even Senator Sherman advocated such a measure, for, as he explained, by thus trying the currency to the public credit—that is to the market value of the bonds—the former would be anchored on a sure foundation, where it would rest in the hands of the people until redeemed in coin on the resumption of specie payments.

To such amateur legislation the senator from Oregon replied that legal-tender notes could not be funded, for no one would invest his currency in four per cent bonds unless money should be so plentiful that it was not worth that rate of interest. On the question of taxing United States bonds Mr Corbett expressed his opinions with his usual force and emphasis. In reply to Senator Casserly, who stated that if such bonds were exempt from taxation, those who held them would become an odious class in the community whenever there should occur a change in public opinion, he said: "I do not wish to leave this question open until there shall be that change of public opinion to which the senator from California refers, until another party shall come here, until the people who were in rebellion against us come here and desire to tax the bonds of the United States out of existence, and make them as worthless as confederate bonds. That is the idea, as I understand, of retaining a tax upon these bonds. It is for that very reason that I am in favor of negotiating this loan and

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reducing the interest and freeing it from every tax whatever, so that there can be no excuse hereafter for an attempt to tax the securities of the United States."

Most of the measures that Mr Corbett advocated, and more than he anticipated, have since been adopted, though not of course directly in the manner which he proposed. Specie payments have been resumed; the national debt has been funded at lower rates of interest, with extended time, and United States bonds are exempt from all taxation. We have seen the four per cents, which it was supposed could not be placed on the market except at a heavy discount, sell for more than thirty per cent premium, and for the first time in the history of the nation, our government securities have sold for higher prices, in proportion to the income they return, than the British three per cent consols. Until recent years the latter were considered the best security in the world; but the prestige of national credit, following the course of empire, has settled at length on these western lands.

Thus, somewhat at length, for his career has been an exceptional one, we have reviewed the political life of one of the foremost statesmen of the Pacific coast. That he has left his impress not only on the records, but on the destiny of the nation none will care to dispute. We would that there were more such men in the chambers of our national and local legislatures, men whose heart and mind were intent on their work and not on their pay, their mileage, their allowance, and their schemes for self-aggrandisement.

It remains only to be said that Mr Corbett was a delegate to the national republican convention which nominated Grant and Colfax in 1868. He has always taken an active interest in politics, though never anxious for official preferment for himself. During the war, though Oregon was far from the seat of active operations, loyal citizens here were not lukewarm in their sympathy with and support of the cause. As an active member of the Christian com-

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mission, much was done by Mr Corbett, in an unobtrusive way, to promote the comfort of the union soldiers, and to encourage them through the dark days of the struggle.

Mr Corbett was married in February 1853 to Miss Caroline E. Jagger, who died in 1865, leaving him two sons, both born in Portland, the younger of whom, Hamilton F. Corbett, died several years ago. The elder is Henry J. Corbett, about thirty years of age, who manifests the ability and the disposition to take up and carry forward successfully through another generation, the work of his father. After graduating from Lawrenceville academy, N. J., he took his place in the bank at the foot of the ladder. He has risen step by step, until he has won for himself the responsible position of assistant cashier. He has grown with the bank, is acquainted with all its operations, and can be depended upon to keep the credit balances in good condition. He is a stockholder and director, and is also identified as director with other corporations. The distinguishing traits of his character are thoroughness and determination. He gets to the bottom of whatever he undertakes; if anything has to be investigated his services are called into requisition. He is dignified and courteous in demeanor, and unlike most other young men occupying his place and having his prospects for the future, he is unassuming and modest. He appreciates the counsels of his father, and realizes that life without an aim is not worth living; that every man is accountable to his fellows and to himself for something accomplished by his individual efforts and talents. He would have chosen a profession but for the business demands upon him as his father's successor. He possesses a fine physique; is six feet in height, straight as an arrow, symmetrically formed, athletic, and a bold and tireless sportsman, and assuredly he is a young man upon whom his father's mantle will fall gracefully.

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In 1867 Mr Corbett was again married to Miss Emma L. Ruggles of Worcester, Massachusetts. At the time of her marriage Mrs Corbett was twenty-one years of age—quite young to assume the social and domestic responsibilities that devolved upon her, for she at once took position in the social circles of the capital as a senator's bride and as a mother to his two sons. There are few young ladies who could have borne themselves so becomingly in this new sphere. Mrs Corbett was endowed with remarkable grace of manner and a refinement of wit in repartee that won her many admirers at Washington.

Mr Corbett's Portland residence is one of the most attractive in that city of elegant dwellings. Its interior appointments are in excellent taste, and accord with the wealth and position of the proprietor; the ample grounds about his house are ornamented by a number of beautiful elms that were brought by him as mere twigs, their roots packed in moss, from New England by way of Panamá. Taking kindly to this soil, they have developed in size, and widened the circle of their shade from year to year, conspicuous by their origin and their adaptability. So their possessor, true to his inherited qualities and education, has grown in power and favor under new and sometimes strange conditions.

Mr Corbett is a man of distinguished appearance, being six feet in height, straight and spare built, but symmetrical. His manner is courtly and graceful. He is gentle and courteous in address—a man whom Americans are not ashamed to point out as a specimen of a United States senator. His hair was brown, but now iron gray, rather contributing to the dignity of his presence. His eyes of hazel color are soft and restful when he is in repose, but bright and sparkling when he is exhilarated. His face betokens kindness and good will; his smile is cheerfulness itself. He impresses you as a man who has succeeded in life by patience and the economy of

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reserve force, rather than by exhausting effort and precipitate action; as one possessing an invincible power to labor and to wait. He is totally free from assumption or mannerism; direct and natural in every expression. He is a good listener. He is never self-assertive or eager to forestall others in conversation, only speaking when the fullness of the occasion gives additional weight to his words. His ordinary tones are low and soft, without special emphasis or artifice, as though he rather left his thoughts to express themselves than to derive vitality from the utterance. In other words he speaks less as the cunning rhetorician than as the practical philosopher. It would seem that the tranquility of his life is mirrored in the evenness of his speech. His expression is not weak, however; there is an element of strength in it which comes from truth, and inspires confidence. It is precise and decided. When he has said "no" you feel that his stand is taken, and his determination fixed; for his firmness is of the mind, not of the tongue. The attention he secured, and the influence he wielded in the senate demonstrate that he can raise his voice in public assemblies so as to be heard and felt. That he can be roused to fairly punish an enemy is likewise evident from the purchase of the *Oregonian* in 1872, which he soon made the medium of publishing the news at so great a cost that Ben. Holladay's unfriendly *Bulletin* was soon driven to the wall, whereupon Mr Corbett got out of the newspaper business with the same alacrity that he had engaged in it. That he is popular goes without saying. But that is not all. He is lovingly and kindly regarded by his neighbors. It would be hard to find anyone in this community who envies him in his prosperity, nor who does not feel that so long as one man may or must have more than another of this world's goods, he is worthy of the distinction, and may be safely trusted with the stewardship of great wealth.

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He was in every way equipped mentally, morally, and physically to enter the north-west as a pioneer and builder. Chronicle clearly the lives and experiences of men of his quality and calibre who have been identified with the settlement and progress of the Pacific coast, for the last thirty-five or forty years, and apart from them what would there be of vital historical interest to record? A skeleton of statistics alone would remain. They did not contribute their talent, energy, and enterprise toward laying the foundation and then give way to demoralizing surroundings; to them belongs the credit for the superstructure also. Theirs are the substantial and ennobling conquests of peace, in comparison with which the achievements of military captains are small and insignificant. It may be many years to come, but there is a period in the future when civilization in all its most desirable ends will have reached as high a degree in Oregon as was ever attained in Greece or Rome in their loftiest developments. There can be no doubt of this consummation. Whose lives then, as factors in this accomplishment, are more profitable to preserve for study by posterity than such as that which I now present to the reader?

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CHAPTER XXII.

LIFE OF SOLOMON HIRSCH.

THE REWARD OF SELF HELP—SUCCESS ATTENDING APPLICATION TO BUSINESS AND STRICT INTEGRITY—A FACTOR IN OREGON'S GROWTH—REMARKABLE LEGISLATIVE CAREER—RECOGNITION OF ABILITY AND CHARACTER—A MAN WHOM THE PEOPLE APPRECIATE—UNITED STATES EMBASSADOR TO TURKEY.

MANY men have made their mark in the senate of Oregon since the first legislative body assembled in 1843, in an unoccupied barn in Oregon City. The pioneers who had travelled for more than two thousand miles through what was then known as the American desert, braving perils and hardships, to found a new empire on the shores of the Pacific, could be trusted to frame a constitution which provided equal rights and liberties for every citizen. That its provisions were well considered is evident from the fact that most of them were ratified in the organic act of 1848. In later years the state has been equally fortunate in securing for its law-makers men of character and ability, with heart and brain intent on their work, and not on their per diem, their allowances, and their own personal designs. Worthy of mention among these is Solomon Hirsch, who served for three successive terms as senator for Multnomah county, the incidents of which long and useful career no one recalls without credit to the man and satisfaction to his constituency. It is not only, however, as a legislator, but as a merchant, as a member of society, and above all, as a public-spirited citizen, that the

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CHAPTER XXII.

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Many men have left their mark in the [illegible] Oregon, some by the force of character, some by [illegible] deeds, in active pioneering, in Oregon City [illegible] pioneers who first settled for more than [illegible] miles through, were the [illegible] American coast, bringing people and [illegible] fear, a new [illegible] the shores of the Pacific [illegible] be trusted to frame a constitution which [illegible] equal rights and [illegible] every citizen. [illegible] provisions [illegible] that most of the [illegible] of laws. In later years the state has been [illegible] to create industries, for its [illegible] accurately, well read and [illegible] work, and not on the [illegible] [illegible] even personal [illegible]. Worthy of [illegible] among these is Solomon Hirsch, who served [illegible] successive terms as senator for Multnomah [illegible] the journals of which long and useful [illegible] reads without credit to the man and [illegible] to his constituency. It is not only however, as [illegible] legislator, but as a merchant, as a member of society, and above all, as a public-spirited citizen, that the

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record of his life merits a place in the annals of his adopted state. To men of this stamp is due the prosperity which Oregon enjoys as one of the most steadily progressive sections of the union, and which Portland enjoys as the second commercial emporium on the Pacific coast, as the seat of manufacturing enterprise, and with a volume of trade that would do credit to a city with thrice her population. Take from the history of nations or of states the achievements of such men, and that which remains is seldom worth recording. Their lives is the life of the country.

Mr Hirsch was born on the 25th of March 1839, in Würtemburg, Germany. His father was a poor man, who had a hard struggle to maintain a large family of children; his mother belonged to an old and much respected family of the name of Kuhn, all of whose members had long been residents of that country. On both sides his parents were of Hebrew extraction, and of the Hebrew faith, and his seven brothers and four sisters all adhered to the religion of their forefathers.

After completing his studies he came at fifteen years of age to the United States, in company with his brother Edward, who later served two consecutive terms as state treasurer of Oregon. He at once obtained a clerkship at New Haven, Connecticut, where, however, he remained only for a few months, proceeding thence to New York city, and soon afterward to Rochester, New Hampshire. There he remained as a clerk until 1858, when he removed to Oregon. After a brief residence in Salem, he engaged in business at Dallas, and three years later at Silverton, in partnership with his brother. At both points he was very successful, and there laid the foundation of his fortune. But the sphere of operations was too contracted for a man of his enterprise and ability, and in 1864 he went to Portland, where he established a general wholesale business on the west side of Front street in connection with L. Fleishner and A.

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Schlussel, under the firm name of Fleishner and company. Thus it continued until 1874, when Jacob Mayer, a wholesale dry-goods merchant was admitted into partnership, and the style of the firm was changed to Fleishner, Mayer and company, which name it retains.

Business increased rapidly, so that in the following year more extensive premises were needed, and they became acknowledged as the leading dry-goods house on the Pacific coast, outside of San Francisco, while their sales far exceeded those of some of the more pretentious establishments in that metropolis. This result is largely due to the energy and zeal of Mr Hirsch, who for several years devoted nearly one-half of his time to travelling as a salesman, thus becoming acquainted with many of the most prominent men, not only in Oregon, but in Washington and Idaho. During these journeys he became intimate with business men throughout the northwest, to whom he so commended himself, that, as a friend of his remarked, "he bound them to him with bands of steel."

Between 1866 and 1868 the firm was interested in the Brownsville Woolen Manufacturing company, the products of which, valued at about $150,000 a year, and consisting mainly of cassimeres, doeskins, tweeds, flannels, and blankets, were marketed in Oregon, California, Idaho, and Washington. In the latter year, however, they disposed of their stock, and since that date have taken no further interest in the concern. Among the reasons for their withdrawal was probably a decrease in the demand for the products of the mill, caused by the greater volume of eastern goods shipped to this country during the years that followed the conclusion of the war. On account of the high rates of wages, taxation, and interest, the cost of fuel and water, and other drawbacks, such enterprises at that time found little favor with local capitalists.

With numerous enterprises beneficial to the com-

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munity, Mr Hirsch has been closely identified, aiding to organize and build them up, and taking stock in others, to which he was unable to give personal attention. The success of many such undertakings has been due to his executive ability. Among his other interests apart from the firm may be mentioned his investments in real estate, which he considers the soundest and safest of all his business ventures. The correctness of his judgment is proved by the rapid and continuous advance in the values of realty, which for several years ending with 1881 increased on an average, within the city limits of Portland, twenty per cent annually, while for 1880, the appreciation was forty per cent. In the estimation even of the most conservative men, this advance was entirely legitimate, in view of the rapid strides made in railroad construction and the vast number of immigrants settling on lands tributary to Portland.

That part of the Pacific coast which is included in the United States has long been noted for the number of its millionaires, and nowhere is there a larger proportion of men who, if they do not count their wealth by millions, are possessed of abundant means, than in the city of Portland. In no other land is there so large a percentage of rich men who began life at the beginning. Out of every fifty men who may be called wealthy not more than two or three at most brought to this country as much as $50,000, and of those who retained even what they brought, though they may since have gathered wisdom from experience, the proportion is but little greater. Among the former there are not a few who are ashamed of their early poverty or early associates; but most of our capitalists who began life in some humble capacity, as a clerk in a store, a purveyor in a mining camp, a retail tradesman, or even driving a team or handling a pick, have the manliness and good sense rather to be proud of their early career, mingling freely with the friends of their early days, and

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ready to extend a helping hand to those who need assistance. Such a man is Mr Hirsch, for though now enjoying all the blessings of life, an ample fortune, a constitution unimpaired by dissipation or excess, the society of family and friends, the respect and good-will of his fellow-men, and a position in the ranks of commerce, society, and politics of which he may well be proud, he remembers without shame or regret when he was himself an almost friendless youth, struggling to gain a foothold. Nor are these results due to accident. They have been achieved by the exceptional force of character, the marvellous energy and the iron will of one in whose vocabulary there is no such word as fail. The leadership of such men is inevitable. In physique Mr Hirsch is a remarkable specimen of mature and vigorous manhood. Nearly six feet in height and with a powerful and well-developed frame, he is one whose stature and build would alone attract attention. With regular and well-shaped features, jet-black hair and beard of luxuriant growth, dark, penetrating eyes, and a lofty and spacious forehead, his appearance fully justifies the reputation which he enjoys as one of the most intelligent looking men in Portland—indeed, a type of the Hebrew race, to which, in its normal development, Arnold Guyot ascribes a rank second only to the Greek in intellectual and physical character.

Mr Hirsch has been identified as a leader with the republican party in Oregon since 1864. In that year it happened that his eldest brother, Mayer, then a prominent merchant in Salem, went to the eastern states. It occurred to Solomon Hirsch that his brother was well qualified for the position of delegate to the republican national convention, soon to be held at Baltimore. He proceeded to Albany, where the state convention was to meet, and broached the matter to a few of his friends, all of whom were in favor of his project. After a sharp struggle he

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succeeded in securing his brother's election, the remaining delegates from Oregon being Josiah Failing, Thomas H. Pearne, Frederick Charman, Hiram Smith, and J. W. Souther, all men of ability and prominence. Thus was the state represented at the second nomination for the presidency of Abraham Lincoln. Of Mayer Hirsch it remains only to be said that his tact and ability soon brought him to the front rank of his party, and that no one was more deeply regretted than he when, a few years later, during a business visit to New York, his career was cut short by a fatal sickness. In 1872 Mr Hirsch was elected a member of the lower house for Multnomah county, which holds the control in the legislature of Oregon. In recognition of his acknowledged financial ability, he was appointed a member of the committee on ways and means, in which capacity he used all the weight of his influence in support of the first appropriation for the building of the state capitol. In 1874 and again in 1878 and 1882 he was chosen by the same county for the state senate, on each occasion by an increased majority, while having pitted against him the very best men whom the democrats could bring forward. His first opponent was Judge Strong, a most able and popular candidate; and it is worthy of note that Mr Hirsch was the only one selected in opposition to the independent ticket, which then almost swept the field. In 1878 his opponent was J. B. Congle, a successful business man of Portland and one who had been honored with many public offices. During his second term he was chosen president of the senate by the unanimous republican vote of that body, and while in that position his knowledge of the rules of procedure, his rare executive ability, and his strict impartiality gained for him the approbation even of his political adversaries. In 1882 he defeated John Catlin by nearly 1,200 votes. This being the largest majority ever returned in the election of a state senator is sufficient evi-

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dence of the popularity which he then enjoyed. In April of this year, at the state convention held at Portland, he was unanimously recommended by the republican delegation from his county as a member of the state central committee, of which he was afterward appointed chairman. To his able management of the campaign, which resulted from the first time since 1870 in the election of a republican governor, was largely due the disastrous defeat of the democrats. Never, it is said, in the history of the state was a political campaign more skilfully organized or more ably managed. In this year, also, he endeavored to secure the election of Mr Mitchell to the United States senate, but after a protracted struggle, was compelled to retire from the contest, the choice of the republicans finally centering on Senator Dolph, who was, however, among Mr Hirsch's warmest political friends. In 1885 Mr Hirsch was proposed for United States senator. It was a memorable occasion. The balloting went on continuously for forty days, Sundays excepted, during all of which time he did not lose a single vote. Finally, it was found impossible to come to a decision, and thus for the first time since her admission, the state of Oregon was without her proper representation in congress. On the last day of the session a convention met at noon with a view to make a selection, and continued its labors until eleven o'clock at night. Meanwhile Mr Hirsch called for a recess, in order that the republicans might bring forward another candidate; but to no purpose, for after casting some forty ballots, the senate adjourned without making a choice. During the next session he refused to permit his name to appear, Mr Mitchell thereupon being selected, and at the expiration of his term he retired from politics, except that in 1888 he allowed himself to be elected a member of the republican state convention.' Many were the regrets of his friends and of his party when the member for Multnomah county

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appeared for the last time on the floor of the senate chamber, for none were more respected and by no one could his place be filled. For he was admirably fitted for leadership, not only by his intelligence and commanding presence, but by other essential qualities. Calm and imperturbable amid the strife of debate, he allowed nothing to ruffle his temper, or to bias his judgment; once assured that he was in the right, he knew not how to yield. Ever watchful of the interests of his constituents and of his party, there were few who could support its measures with more cogent arguments, or could detect more readily the weak points in those of his opponents. Though not an orator, or at least not given to rhetorical display, he was a terse and forcible speaker, expressing his ideas in neat and simple phrase, and always in words suited to the moment and the place. Regarding his career as a statesman, Mr Joseph Simon, himself a conspicuous republican leader, and president of the state senate in 1889, remarked: "Mr Hirsch first became closely identified with politics in 1872, when he was elected to the legislature, being chosen state senator in 1874 and except for a period of two years serving continuously until 1886. He was regarded as a suitable man to represent the business element in the community, and for that purpose he was selected. At the session of 1885 he was voted for and was the choice of the people and of the legislature for United States senator, but after long protracted balloting was not elected, though he lacked only three or four of the required number of votes. To his efforts, as chairman of the republican state central committee in 1882 is attributed the success of the party in the campaign which followed. He is a man of great ability, with remarkable power of organization, and well acquainted and extremely popular throughout the state." And thus speaks Matthew P. Deady, United States district judge for Oregon: "I knew Mr Hirsch in 1858, when he first came

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to Oregon. He was one of the handsomest men I ever saw, tall, erect, well built, and with beautiful hair and beard. Some years ago he was drawn into politics, being the republican nominee first for the assembly and afterward for the senate, and soon became the controlling power in his party, having in his hands the making and unmaking of others. Notwithstanding his long career as a politician, and his intercourse with all kinds of people, there is nothing to be said against him; he is a most conscientious man, temperate in his habits and much devoted to his family. He should have been sent to the United States senate, for he had a majority of his party's votes. But for his own sake, it was, perhaps, better that he subsequently withdrew from the contest, for such a career would have interfered too much with his business interests." On the 1st of February 1870 Senator Hirsch was married in the city of Portland to Miss Josephine Mayer, the daughter of one of the partners in the firm of which he is still an active member. A native of Louisiana, Mrs Hirsch removed with her parents to California when only two years of age, and afterward became a resident of Portland, where she has long been one of the leaders in society and is universally esteemed for her many estimable qualities. Their four children are all natives of Portland, where they attended school, for the senator is satisfied with the excellent local facilities for education. When only sixteen years of age, their only son had outgrown his father in stature, being then six feet one inch in height, and already gave promise of an honorable and useful career, such as that which his father can now look back upon with a consciousness of a well-ordered and blameless life. In 1889, in recognition of his fitness for the office, his substantial popularity and his valuable service to the party of the administration, President Harrison appointed him as embassador of the United States at the court of Turkey. The dis-

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tinction was totally unsolicited on the part of Mr Hirsch, nor was he aware of the appointment until it had been procured for him through the friendly zeal of the leaders of the republican party, who were eager to acknowledge in a becoming manner their own indebtedness to him and, also, to gratify their constituency. Coming to him as it did he was much gratified and fully appreciated the compliment. He is not unaware of the responsibilities that are involved in the exalted position to which he has been called, and those who know him need no guarantee that he will be equal to any emergency that may arise, or that he will discharge the duties of his trust with dignity and credit. When, October 25, 1889, after many expressions of congratulation and good-will had been offered him in public and in private, he left Portland for Constantinople, he carried with him the universal confidence and affection of the community, their only solicitude being that his health, which had been impaired a short time before by a severe illness, might be reëstablished by travel and change of scene. His fond wish was to keep his family together with him at all times, but he yielded to the importunity of his son, who is ambitious to enter commerce, at once, and allowed him to remain with the business house.

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CHAPTER XXIII.

LIFE OF LA FAYETTE GROVER.

MASSACHUSETTS COLONY — GROVER FAMILY IN AMERICA — LA FAYETTE GROVER'S EARLY EXPERIENCES — COMING TO OREGON — PROSECUTING ATTORNEY — MEMBER OF THE LEGISLATURE — OFFICER OF VOLUNTEERS — MEMBER OF CONGRESS — BUSINESS AFFAIRS — GOVERNOR OF OREGON — UNITED STATES SENATOR — CHARACTER.

AMONG those who in 1630 accompanied Governor Winthrop's colony from England to Massachusetts were Thomas Grover and his wife Eliza. They finally settled near Charlestown, "on the mystic side," now Malden, and took part in founding the first church in that town. Three grandsons of these first settlers in 1702 bought wild lands in the north precinct of Taunton, afterwards included in Norton, now Mansfield, Massachusetts, which had originally been granted to Captain Miles Standish for defending the colony against Indians, and made their homes there. They joined in organizing the first church in Norton, which about that time was incorporated by itself, and one of them became a deacon of this primitive church. James Grover, a descendant of one of these, with five sons and three daughters, removed in 1781 to a wilderness district in Oxford county, Maine, now Bethel, where he organized the first church of that settlement, becoming its senior deacon. The early Grovers in Massachusetts intermarried with the Austins, Chadwicks, Coxes, and other substantial New England families. They were deacons in the church, and

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CHAPTER XXIII.

GEN. OF LA FAYETTE GROVER.

MASSACHUSETTS COLONY — GROVER FAMILY IN AMERICA — LA FAYETTE GROVER'S EARLY EXPERIENCES — COMING TO OREGON — PRESIDENTIAL ELECTORS — SPEAKER OF THE LEGISLATURE — ELECTED GOVERNOR — MEMBER OF CONGRESS — BUSINESS AFFAIRS — GOVERNOR OF OREGON — UNITED STATES SENATOR — CHARACTER.

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L. F. Grover.

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selectmen of the towns in which they lived, "in good old colony times." They served in the early Indian wars in New England, in the old French war of 1755 for the reduction of Canada to English rule, and in the war of the revolution. John Grover, eldest son of Deacon James Grover, was the proprietor's agent in surveying and laying out the town of Bethel, and in constructing roads to connect it with neighboring towns. The Grovers purchased extensive tracts of land in the southwest quarter of the town, extending from the Androscoggin river up to a series of elevations then and now called Grover hills, where they established the permanent homes of the family in Maine. Here, in 1783, was born John Grover, the son of John, a distinguished physician, surgeon, and scholar, who for more than fifty years practised his profession throughout that part of the state.

Dr Grover served as an assistant-surgeon in the war of 1812. He was a member of the convention which framed the constitution of Maine in 1819, and after the admission of the state to the union he served in both branches of the legislature for several years. But when in 1830 it became necessary for him to choose whether he would give his services to the public or to his profession, he definitely chose the latter, and ever afterwards during a long life was wholly devoted to its practice. He accepted the position of surgeon-in-chief of the military forces called into service under General Scott to repel the invasion of Maine by British troops in 1837, during the dispute between Great Britain and the United States as to the northeastern boundary of that state. Dr Grover was an enthusiastic promoter of education of all classes, and for thirty years he was president of the board of trustees of Gould's academy in Bethel, of which he was one of the founders. He died in 1867.

He was the father of four sons, Abernethy, Talleyrand, La Fayette, and Cuvier, and of two daughters

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who died young. The three eldest sons were chiefly educated at Gould's academy, Bethel, and at Bowdoin college; the youngest son at West Point military academy.

Major Abernethy Grover followed a business career; served as a member of the Maine legislature, and of the governor's council of that state; and throughout the late civil war he served as captain and major of the 13th regiment of Maine volunteers. By appointment of President Cleveland, he was register of the United States land office at Miles City, Montana.

Professor Talleyrand Grover was for nine years professor of languages in Delaware college, at Newark, Delaware; a part of this period he was instructor of the modern languages, of which he was a perfect master, having spent some time in Europe in their acquisition. He was afterwards professor of Latin, Greek, and Hebrew, in which languages he was equally versed. He resigned his position to pursue his literary studies abroad. He was a young man of great brilliancy and promise, but died prematurely at the university of Upsalla, in Sweden, in 1859.

General Cuvier Grover graduated at West Point in 1850. During his whole course at that institution, after the first year, his name appeared in the list of distinguished cadets annually published in the army register. His history is well known as the distinguished division commander of that name during the late war. He died at the early age of fifty-eight, his life being cut short by extreme hardships and wounds incident to his military services.

La Fayette Grover, the subject of this sketch, who became the first representative in congress from the state of Oregon, and afterwards governor of that state and senator of the United States, was the third son of Dr John and Fanny Grover. The mother of this family, a woman of marked character, was a descendant, on the mother's side, of the Woodman family of

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Massachusetts, whose first ancestor came from Newbury, England, and settled in Newbury, now Newburyport, in 1635, and who was one of the early magistrates of the town. Governor La Fayette Grover was born in Bethel, Maine, November 29, 1823, was educated at the classical academy of that town, and at Bowdoin college, Maine. He studied law in Philadelphia under the instruction of the late Asa I. Fish, and was admitted to the bar there in March 1850. Late in the autumn of that year he took passage on a merchant vessel bound round Cape Horn to San Francisco, where he arrived in July 1851, and in the next month he arrived in Portland, Oregon, by the old steamer *Columbia*, then on one of her early trips. He at once proceeded to Salem, the capital of the territory, and established himself as a lawyer. The first regular term of the United States district court was held at Salem in the following month, and on the invitation of Chief-justice Nelson, who presided over the court, Mr Grover became the clerk, stipulating that he would accept the position temporarily, and until a suitable successor could be appointed. He held the office six months, obtaining an excellent acquaintance with local court procedure, and with jurors, witnesses, and litigants. The following spring, resigning the clerkship, he formed a law partnership with Benjamin F. Harding. With him Mr Grover at once entered upon a general and lucrative practice, which lasted for several years.

In 1852 he was elected by the legislature prosecuting attorney of the second judicial district of the territory, which district then extended from Oregon City to the California line. In 1853 he was elected and served as member of the territorial legislature. During the summer of this year serious hostilities of the Rogue River Indians occurred in southern Oregon, and Mr Grover was appointed by Governor Curry recruiting officer to raise volunteer troops to aid the settlers against the hostiles. This was

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promptly done, and a company was at once mustered at Salem, of which J. W. Nesmith was elected captain and L. F. Grover first lieutenant. These troops, with a pack-train loaded with arms, ammunition, and supplies, hastened south to the aid of the hard-pressed settlers in southern Oregon. At the close of hostilities in September, Mr Grover appeared as deputy United States district attorney in the district courts in the southern counties, then being held for the first time by Judge M. P. Deady. Congress having assumed the compensation of settlers whose property had been destroyed by hostile Indians during the Rogue River war of 1853, Mr Grover was appointed one of the commissioners to assess the spoliations, and served as president of the board, in 1854. He was again returned as a member of the legislature from Marion county in 1855, and served as speaker of the house during the session of 1855–6.

During this period the combined Indian tribes from the California line to the British boundary attacked the frontier settlements in a determined manner throughout Oregon and Washington, and two thousand volunteers were called into the field to coöperate with the regular forces for their suppression. In this movement on the part of Oregon Mr Grover aided in raising troops, and served in the field throughout the Yakima campaign on the staff of Colonel Nesmith. He served the following year as a member of the military commission, appointed by the secretary of war under authority of an act of congress, in auditing and reporting to the war department the expenses of Oregon and Washington incurred in suppressing Indian hostilities of 1855–6. On this commission his co-laborers were captains A. J. Smith and Rufus Ingalls.

The people of Oregon having resolved to form a constitution, and to apply for admission to the union as a state, the voters of Marion county elected Mr Grover a member of the convention which was con-

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vened for that purpose at Salem in 1857. In that convention he served as chairman of the committee on the bill of rights, and as member of several other important committees, and took an active and prominent part in giving direction to the work of that body.

Upon the holding of a general election under the constitution of the new state, Mr Grover was returned as the first representative in congress from Oregon. The chief work of the Oregon delegation at this time was devoted to securing the admission of the state to the union, and the assumption of the Oregon Indian war debt.

Retiring from the thirty-fifth congress, he devoted himself almost exclusively for ten years to professional and business pursuits. He formed a law partnership at Salem with the late Joseph S. Smith, subsequently member of congress, which was afterwards extended to Portland, including W. W. Page. This firm conducted a very important and lucrative practice throughout the state for several years.

Taking an early and active interest in the establishment of manufactures in the new state, Mr Grover, with some others organized the Willamette Woollen Manufacturing company at Salem in 1856. This corporation had in view the introduction to the state capital, by canal and natural channels, the waters of the Santiam river as power for general manufactures. He became one of the directors of the company, and remained in this connection for fifteen years, during which period this, the first broad enterprise for manufactures in Oregon, attained large proportions and great success.

In 1860 Mr Grover purchased the shares of Joseph Watt in this corporation, and became owner of one-third of all the mills and water-power of Salem. From 1867 to 1871 he was manager of the company. Under his direction the Salem flouring mills, which had been begun, were completed, including the putting in of all the machinery and works, and constructing a

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steamboat canal from the river to the mills. These flouring mills were a marked success from the start, and were the first direct shippers of Oregon flour by the cargo to foreign countries. The operations of this company were great stimulants to the growth of wheat and wool in early Oregon, and facilitated many other business enterprises in all directions. The unfortunate destruction of the Salem woollen mills by fire occurred subsequently to Mr Grover's retirement from the company.

In 1866 he presided over the democratic state convention of that year, and was elected chairman of the state central committee, which position he held for four years. During this period the democratic party attained the ascendency in the politics of the state, which it had not had since 1860.

In 1870 Mr Grover was elected by the democratic party as governor of the state for four years, and in 1874 he was reëlected to the same position, which he held till 1877, when he entered the senate of the United States, having been elected to that position by the legislative assembly at its September session of the previous year. In his canvass for the governorship he based the chief issue on the abrogation of the Burlingame treaty with China, though the subject was not mentioned in the platform of either political party.

During Governor Grover's term as chief executive, which lasted nearly seven years, many changes took place, and unusual progress was made in business enterprises, and in the general condition of Oregon. His first step as executive was to put in force a law which had been enacted two years previously, but not executed, providing for tug-boats at the mouth of the Columbia river, and a subsidy for their support. This movement gave the first reliable basis for a coastwise and foreign commerce from Oregon's great river, which took root vigorously, and has increased ever since to its now strong proportions.

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He favored the construction of the locks at the Willamette falls by a private company, assisted by aid from the state. The project was successful, and opened the Willamette river to competition with the railroads, and reduced freights throughout the Willamette valley to such extent as to stimulate greatly farm production and general commerce.

Another object of his administration was the securing to the state the segregation and patenting of all public lands to which Oregon was entitled under various grants by congress, and a recognition of her rights to the tide lands which she held by reason of her sovereignty as a state. All these rights became recognized, and a large proportion of these lands was secured to Oregon during Governor Grover's administration.

He also favored the erection of permanent public buildings for the state, and during his term of office penitentiary buildings and the statehouse were erected of permanent and enduring structure, an example of economy and honesty in public work. One feature may be noted in these buildings: they were erected at an expense inside of the estimates of the architects —quite unusual in such cases. While the statehouse was not at first carried to full completion, its mason work was all done, the entire roof put on, and so much of the interior was finished as to render it suitable for the convenience of the state offices, the legislature, and the supreme court.

The grants by congress for the establishment and support of a state university and for an agricultural college in Oregon having been secured and utilized, Governor Grover interested himself in promoting the organization of these institutions, which was also accomplished during his term of office. There was also, during the same period, founded at Salem the institution for deaf mutes and the school for the blind.

Having labored to secure to the state the indemnity common school lands, held in lieu of those occupied

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by settlers before the public surveys, and the proceeds of their sales having been invested for common school revenues, the period had arrived for a more complete organization of the public school system of the state, and for its support out of the public funds thus utilized. This important foundation work was also accomplished, and the first distribution of public funds by the state in support of common schools in Oregon was made during the term of Governor Grover as chief executive.

In his inaugural address to the legislative assembly in 1870 he presented the subject of Chinese exclusion, and favored the abrogation of the treaty between the United States and China of 1868, commonly known as the Burlingame treaty. The legislature of that session, on his recommendation, memorialized congress to that effect, and from that time forward, until from his seat in the senate of the United States he voted for bills excluding the Chinese, and for a modified treaty with China, both of which prevailed, he never abated his zeal in promoting this movement.

An effort was made in the legislature of Oregon in 1870 to initiate a system of subsidizing railway corporations by bonding cities and counties in their favor, as inducements to the construction of their roads. A bill was passed by both houses, by more than two-thirds majorities, authorizing the city of Portland to issue its bonds in the sum of $300,000 in favor of Ben Holladay, to induce him to build the railroad up the west side of the Willamette valley, making its principal terminus at Portland. This bill was considered by the governor as against public policy, and as against distinct provisions of the state constitution. The bill was vetoed in a message which settled the policy of the state on the subject of public grants of money to railway corporations as long as the present constitution of the state exists. This veto having been filed subsequently to the adjournment of the assembly went over as an issue in the

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elections which returned the following legislature, and the veto was almost unanimously sustained by the senate, where the bill originated, only one vote being given against it. So that Oregon has been and now is entirely free from public debt, both general and local, growing out of the construction of railways, which has been the source of much embarrassment to the new western states.

The memorable contest for the presidency of the United States in 1876 between Hayes and Tilden raised an electoral question in Oregon. In this case Governor Grover held, on issuing certificates of election, that under the injunction of the constitution forbidding a federal officer to be appointed a presidential elector, the votes cast for him were void, and as if never cast. And he gave the certificate to the candidate having the next highest vote. This decision was far-reaching, as the contested vote in Oregon held the balance of power in the electoral college if all other contested votes in Louisiana and Florida should be counted for Hayes. And it called for the organization of the electoral commission, which overruled the governor's decision. But he desires it understood that on reëxamination he adheres to his original view.

Having been elected senator from Oregon, he took his seat in the senate of the United States in March 1877.

In that body he served as member of the committees on military affairs, public lands, railroads, territories, manufactures, and private land claims.

His chief efforts during his term as senator were to secure a settlement of the Indian war claims of Oregon; to promote the completion of the Northern Pacific railway; to obtain liberal appropriations for the surveys and improvement of the rivers and harbors of Oregon and the Pacific northwest coast; and the extension of the government surveys of the public lands west of the Rocky mountains. He also labored

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constantly for the modification of our treaties with China, and for the enactment of laws excluding the Chinese from immigrating to this country. He made speeches on the extension of time to the Northern Pacific railway company for the completion of this road, on the several Chinese exclusion bills, and in secret session on the ratification of the treaty with China modifying the Burlingame treaty of 1868, and on other subjects.

His health being impaired, Mr Grover determined on his retirement from the senate, in 1883, to withdraw from public life, and in future to devote himself exclusively to his personal and private business affairs, which had long suffered neglect.

Not proposing to return to the practice of his profession, he entered vigorously upon the improvement and disposal of tracts of real estate immediately adjacent to the city of Portland, owned in part by himself and in part by his wife.

Having purchased a quarter interest in lands now known as Carter's addition to Portland several years prior, he joined with the other owners in laying out and establishing that extension of the city. In 1884 Mr and Mrs Grover laid out and dedicated a tract of high land belonging to her, the gift of her parents, in the northwest elevation of the city, as Grover's addition to Portland, naming it Portland Heights, which name became so contagious that all the high grounds now forming the southwest part of the city bear that name. As a business movement these enterprises have proved a great success, and these broken hills, once so forbidding, are now occupied with fine residences, and form a most beautiful and attractive part of Portland.

Mr Grover has made other real estate investments to the west of the city, in the path of its future extension. He became one of the original incorporators and stockholders of the Ainsworth National bank of Portland in 1885, and later of the Portland Trust

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company of Oregon. He is also interested in the Portland Building and Loan association, and in the Portland Cable Railway company. He has also invested in coal lands. He is an honorary member of the Portland board of trade, and takes a lively interest in the rapidly increasing commerce of Oregon.

Mr Grover was married in 1865 to Miss Elizabeth Carter, youngest daughter of the late Thomas Carter, an early resident of Portland, who was one of the most successful merchants and real estate owners of that city, and one of the proprietors of the town. It is almost unnecessary to say that Mrs Grover is one of the well-known women of the state, a lady of high accomplishments and culture, and of artistic tastes, possessed also of beauty and a graceful and distinguished manner. Throughout all the varying fortunes and misfortunes of her husband—for he has at times met with adverse currents—she has been his steady companion and support. They are communicants of the episcopal church.

Their son, John Cuvier Grover, a youth of twenty-three summers, so named after his grandfather and uncle, the sole offspring of this union, was educated at the Peekskill military academy, New York, and is now completing his studies in Europe.

Thus we have traced the leading incidents of the career of La Fayette Grover, scholar, lawyer, law-giver, and man of business. In appearance he is a man of imposing presence, six feet in height, and with a slender but vigorous and well-proportioned frame. His strongly marked but regular and expressive features bear the stamp of intelligence and power, while in his steel-blue, deep-set, penetrating eyes may be read the determination and force of will characteristic of one who has raised himself to a foremost rank among the statesmen of Oregon, and to a national reputation.

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CHAPTER XXIV.

LIFE OF PHILIP A. MARQUAM.

ANCESTRY—MATERNAL AND PATERNAL CHARACTERISTICS—HOME BUILDING IN A WILDERNESS—A BOY'S MANLY EFFORTS—LABOR WITH HANDS AND HEAD—CALIFORNIA PIONEERSHIP—LAW AND REAL ESTATE IN OREGON—THE IDEA THAT CONTROLLED A LIFE—A LONG, PATIENT, AND PECULIAR STRUGGLE—ITS HAPPY AND USEFUL RESULTS—THE INDIVIDUALITY OF A STRONG AND GOOD MAN.

AT the close of the year 1890, the date at which I am occupied with the biographical history of Philip Augustus Marquam, I have not only enjoyed the experience of somewhat more than a year in analyzing the work and character of the Builders of the Commonwealth, which enlarges my ability for the task, but also in this labor, which to me has been one of love, I have realized at every step that the plan of the enterprise, which was as much an evolution of attendant circumstances as a creation of my own mind, has even more to commend it in practice than that which in the outset made it so attractive to me in theory. Through the most interesting medium, that is to say, the personality of men who are history-makers, I have already seen something of the marvellous growth of the Pacific coast under strange and original conditions. Facts so presented possess the charm of humanity, the peculiar attractiveness of truth expressed in the vitality of original creating minds. The field of the work is very large, while the variety it develops is still greater. "History," says Carlyle, "is the essence of innumerable

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biographies." And I would say, as supplementary of this, that the essence of biography is found in the lives of those whose thinkings and doings are not "significant of themselves only, but of larger masses of mankind." Such factors as these carry about with them volumes of unwritten history which, when thoroughly studied and clearly comprehended, reveal not only themselves but make manifest the spirit of the times and the conditions in which all others in the community move and have their being. While, therefore, no life is without its interest, be the man ever so humble or obscure, it seems evident also that there will be but little of vital history left to be recorded if, having always the historical idea in view, I am able to chronicle fairly and fully the lives of a comparatively few creating and governing spirits who are the recognized exponents of empire-building within the territory to which my enquiry is restricted. Yet only plain business men, as a rule, men who have builded however broad and deep, with hands and head, are contemplated in my researches—those who without pomp and circumstance—have by rugged intellect and force of character controlled the destiny of themselves and their neighborhood, and have founded together, each laboring in his own sphere, an industrial realm which challenges the world to comparison for the things done, and for the energy, ingenuity, and rapidity of their achievements. Each of such factors is an individual force, a law unto himself in his acts and methods; and while he is a part of the social organism, he is yet distinct from all others in thought and act. The historical importance of studying such an agency is evident, while the philosophic or scientific endeavor to penetrate beneath the surface of facts and explore what an eminent English scholar designates as the mystery of the man, is not less important.

Judge Marquam, as he is appropriately called, by reason of judicial service to the people, and also

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because the title fits him, was born February 28, 1823, in the neighborhood of Baltimore, Maryland. His father, Philip Winchester Marquam, was a native of England. Having served his apprenticeship as cabinet-maker, he emigrated to America in the twenty-first year of his age. His father was a wealthy merchant, and master of one of his own vessels. No effort has yet been made by the descendants of the Marquams in this country to trace their genealogy, the disposition among our people being rather to look to the substance of things than to heraldry; which lack of sentiment I cannot commend altogether, although I am much in the same category with the majority as regards the genealogical tree. I regard it as only an honest and natural pride to preserve a good name with all its surroundings. Moreover I look upon the history of a worthy family name as a stimulant; as a standard to be upheld and enhanced in its lustre, if possible, by those who inherit it. All along the line of history we have instances in which such a name has acted as a tonic, and an incentive to deeds of great usefulness, virtue, and heroism. From the meagre information I have at command, I judge that the Marquams in England were sturdy, thrifty people of the middle class, from among whom fresh blood is obtained wherewith to keep the upper and ever deteriorating classes of that country vitalized, notably in the house of Lords as well as in the house of Commons. The Marquam who came to America, as mentioned, settled in Maryland, where it seems he did not long live before he asserted his character and capabilities to such an extent as to make an eligible marriage, his wife being Charlotte Mercer Poole, whose father was a wealthy planter. The Poole manor is the present site of Pooleville, near Baltimore.

He was an adept in the trade which was his specialty, but he was a good mechanic otherwise and possessed something of inventive faculty. Among

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his inventions were several mowers, and a pencil machine. He probably invented the first mowing machine, which implement, however, did not come into use until years afterward. The reason was that it was not adapted to the country, which was in pioneer condition, covered with rocks and stumps. The prairie lands out west, where such a machine could be used to advantage, were not generally known at that time. Mr Marquam was a man of good standing and possessed of considerable means. He was enterprising, and built a massive stone mill, and a large hotel. He was actively engaged in improving his estate when a serious illness befel him, lasting three years. In addition to this misfortune the country suffered a season of hard times, and having many security debts to pay for his neighbors he was financially wrecked. But he was an energetic, clear-headed, determined man, and did not allow his misfortune to overwhelm him. With the small remnants of his fortune he removed to what was then the west.

He was a man of strict integrity, punctilious in honor, and scrupulously moral, though not religious in the sense of being allied to any church. Mrs Marquam was a woman of fair education for her day and generation; a strict member of the methodist church, of even temperament, devoted to her children, whom she was ambitious to see grow up to be self-respecting and respected men and women, religious and useful citizens. She governed her family by the rule of love, and such was the devotion of her children to her that the occasion for punishment seldom occurred. It was a slave-holding community in which the Marquams lived in Maryland, and Mr Marquam himself owned a few negroes. When he had made up his mind to leave Maryland he also decided to leave slavery behind him. He sold his negroes but did not do so arbitrarily; he gave them the opportunity to select for their future masters

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those with whom they preferred to live and work. Mr and Mrs Marquam removed to Ohio with eight children, four boys and four girls. Two children were born to them afterward. From Ohio they went to Lafayette, Indiana, which, at that time, was a small village. When the family landed there they managed, by the sale of a horse to raise $100 with which an eighty-acre tract of land was purchased, and as William Edward the oldest son was of age the land was entered in his name, as an inducement for him to remain and help improve the land; the older children were well educated, only the younger ones suffering in this respect as a result of the father's financial troubles. Henry, to educate whom special effort was made by all the rest, because he was not physically so strong as they, got a common-school training, and taught in the neighborhood. As an indication of how frugal they had to be in order to get on at all, it may be stated that Henry, with a friend, hired a room and boarded themselves, and that Philip made a trip to town once a week to carry their provisions to them. As a reward of application and industry, united with this sort of economy, Henry became a fairly educated man in the English branches, and in Latin and Greek. He subsequently graduated in surgery and medicine in Cincinnati, and became a successful practitioner in several states.

There were eleven children named as follows in the order of their age; Elizabeth married John Young, a farmer, settling themselves in Ohio; William Edward, farmer, and afterward merchant, married Jane C. Cochren, of Indiana, who was possessed of some wealth. They located themselves in Caldwell county, Missouri, and founded the town of Meribill. There Edward entered into the mercantile business, built a mill, carding works, carried on a large farm, and with his oldest son drove large numbers of horses and mules south which were sold on credit until the war

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of the rebellion when his debts were refused payment. This broke him up. He then removed to Wellman, Iowa, with the remnant of his fortune. His son William Henry entered the union army and fought under Grant at Vicksburg. Sarah Ann learned the millinery trade, married James Wallace a chair-maker and house-painter, settled himself in Lafayette, Indiana, became wealthy, had three sons and a daughter, Mary Ann a highly cultivated and intellectual woman who married L. M. Brown, a wealthy merchant. Wilson Dewitt Wallace is an attorney at law; he and his brother Philip, the latter as surgeon were in the union army, William N., the youngest, is a druggist.

Alfred mentioned again later, learned the chair-making and house-painting trades with James Wallace, and after travelling through the southern states for several years settled himself in Liberty, Missouri. He married Olive C. Burbage and in 1845 emigrated to Oregon and settled himself on a section of land in Clackamas county. He raised a large family of children most of whom are settled in the neighborhood, and are farmers. Pamele married Allen Kilgore, a farmer of Indiana. Charlotte married John Holiday, farmer, who settled in White county, Indiana where most of his children are living in good circumstances.

Henry Poole, before mentioned, was one of a pair of twin boys; the other died in infancy. He never married. Then comes Philip Augustus, of whom this is the biography. Mary Jane married William T. Nelson, a merchant of Lafayette, Indiana, afterward a farmer of Illinois. Louisa the youngest of the family, married Charles Humphrey, a physician of Indiana.

Mr Marquam's idea was that Philip, as he was growing up to be able to do so, should stay and take care of the farm, which, however, was the property of his eldest brother. He thought over the matter

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a great deal, and finally made up his mind that the only chance for him was to educate himself. When it is considered that he had never been to school but three months, and that there was the least in the world in his surroundings conducive to the high purpose which he conceived, some idea may be had of the task which he had set himself.

We cannot realize that he actually appreciated what he proposed, but there was already manifesting itself in him a power of will and endurance before which every obstacle must fall sooner or later. Already, alsc, did he give evidence of that faith by which the divine in man's nature inspires him for emergency, and lifts him above the weights of doubt and contingency. He obtained some elementary books, and studied as best he could when he could make time during the day, as well as evenings and the most of Sundays. The road was rough at first, but the troubles encountered only strengthened his purpose. Gradually more and more light came to him; what was confused yesterday looked at to-day became clear. Constant review fixed his knowledge of rudimentary principles; as he studied he learned how to study. His progress was slow at the outset, but the loss in time was made up to him in the thoroughness with which he was compelled to proceed, being forced at every step to make sure of his ground before another step could be taken. This self-discipline sharpened his discernment, expanded his intelligence, made him intellectually independent and self-reliant. In a word, the information he acquired was specific. The great value of the struggle was that he learned how to think; that he learned how to learn; which is after all the main benefit, and should be the controlling object of all tuition. It is a pleasant picture this of a faithful, earnest, resolute boy, thus devoting himself to a laudable ambition in the backwoods of Indiana, snatching every moment for study that he could honestly appropriate.

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It requires no stretch of the imagination to see him unconscious of the flight of time seated under the light of a tallow dip or stretched before the glare of a pine-knot fire wrestling with problems in arithmetic or grammar, struggling hard enough but with every effort enlarging his sphere of thought and increasing his mental strength, while in manual toil on the farm developing into physical manhood with proportionate growth. Thus unaided and alone, he acquired a good English education. During this course of self-tuition he neglected no opportunity of intercourse with intelligent people to acquire information, and conceiving that a debating society would be beneficial he succeeded, with the assistance of an intelligent millwright, in laying the foundation for this organization. He induced the young men of the neighborhood to meet at the schoolhouse in the evenings, and the society was kept up for several years, debates and discussions being held during the winter. It proved very beneficial to a number of its members, who by this exercise acquired confidence in themselves, facility to speak standing on their feet, alacrity in thinking, and force of expression. Several of the young men who took part in this society afterward became eminent in the various professions. As Philip became older, and could command more time for himself by reason of being able to do more work, he adopted a plan which is original, and which seems to me commendable both for sound health and advancement in learning, that is, he worked and studied alternate hours through the day, ploughing or chopping one hour and pouring over his books the next, so that he did as much work as an ordinary hand, and obtained as many hours of study as the ordinary student. It has been his conviction ever since that the true source of education is labor combined with study; that, to say nothing of what is actually learned by manual labor and cannot be learned otherwise, education of the mind is promoted by healthy con-

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temporaneous development of the body. He believes that every man should labor with his hands at some time, whether or not he may probably have to resort to manual toil. There are good reasons why he should and there is no reason why he should not. A man who has been taught to labor properly and intelligently likes it, and it would be hard to find a man who is fond of labor who is not a good citizen. A large proportion of the convicts in our penitentiaries are convicts because of their aversion to labor. A notable illustration of this occurred recently in the state prison of Oregon, in which a prisoner just incarcerated deliberately cut off one of his hands rather than work. No man reared to habits of labor was ever demoralized to such an extent as this.

And now Philip, having performed his entire duty in helping the family by his labor, and having, as we have seen, taught himself in the English branches, was in his twenty-first year confronted by another problem. What was he to do in order to apply his information and make it available for specific use? While still working on the home farm, doing a full task daily alloted by himself, he earned time to secure and cultivate a piece of ground on which he raised feed; he bought some stock, and in this way and others managed to get enough money to buy a student's law library, and under the direction of Godlove S. Orth, an able lawyer and member of congress, afterward minister to Russia, who had selected the books for him, he began to study law. After having studied and worked alternate hours for three years, he took a course of lectures in the law school at Bloomington, Indiana. During his reading he found an impediment in his way. He saw that without a knowledge of Latin he could not thoroughly understand the principles of jurisprudence as expressed in that language, and that no translation, however accurate or clear, could bring out the

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distinctions made or the refinements of the text without more or less loss of the spirit of the law. Therefore, though without a tutor, he took up the study of this language, and educated himself in it step by step until he had mastered it to the degree required for the purpose in hand; starting at the foundation with the old-fashioned grammar, presenting the structure of the language in skeleton, and proceeding thereafter to the application of the rules in *Historia Sacra*. This seemed to him a less difficult feat than the acquisition of English, but if really so it was because the second labor was made easier by the first. This is education in its true sense, that is to say, such discipline as gives the student the use of his faculties in the maximum of their strength.

From Bloomington he went to Wabashtown, Indiana, and thence to California in 1849. I venture to say that no one of the brave, intelligent argonauts of that period—and as a rule they were men of a very superior class—ever entered the golden state who was more master of himself, more confident of his ability to do whatever his hands found to do, more thoroughly and creditably self-contained than Philip Augustus Marquam. Like all the rest, he was after the golden fleece. In two or three years he would make some money and go back to the "states," so little at that time was known regarding the permanent resources, the attractiveness of climate, and almost every other inducement for home-building on the Pacific coast, of which gold really was but an incident. With three other young men he started across the plains in the spring with ox teams, and was six months in reaching the Sacramento valley. Thence they went to the Redding mines, reaching that district in the fall of the year. They underwent the ordinary experience of placer miners of that day, but in addition they took part in several Indian fights. Judge Marquam, as a souvenir of the most serious of these engagements,

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carries the scars of three wounds on his body. The way the struggle began was this: On Middle creek the remains of an old man and his son from Kentucky who had been murdered by the Indians were found in the stream. It was determined to punish the murderers. About the first of January 1850 a company of about thirty men went out against the Indians and drove them into the mountains, killing several, and losing one of their own men. In the mean time gold prospects were discovered on the east side of the river. This ground had been held by the Indians. Marquam and others went across the river, where they found the prospectors expecting an attack at any moment, and keeping a strict guard; but the party now being increased to ten, all went to sleep. That night the Indians came upon them in large numbers, armed with bows and arrows, and making the night terrible with their war whoops. The miners were taken completely by surprise, their arms were out of order, and of the ten seven were wounded but none killed. The whizzing of arrows filled the air. Marquam slept with his arms folded across his breast, and one of these missiles struck him in the arm; he was also struck in the knee, from which, ten years after, he himself extracted a large piece of flint, the head of the arrow with which he had been wounded. The arrow which pierced his arm could not be withdrawn in the direction from which it had pierced the flesh, and in order to releave himself of it he had to pull it its entire length out on the side opposite the point at which it had entered. The handful of miners had no alternative but to take the desperate chances of sallying forth and attacking their assailants, wounded as they were; and getting some of their weapons into use, they finally succeeded in driving the Indians away. Shortly afterward great excitement prevailed, five hundred men came to the camp about equally divided in their ambition to dig for gold and to fight Indians; but Marquam had seen

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enough of this sort of life, and in the spring of 1850 he went to Fremont, in Yolo county, and began the practice of law; but he had hardly more than opened his office when, in April, he was elected county judge. There was no little difficulty in organizing the state and county governments, in which work he took an active part. Judge Marquam's term of office was four years, but recurring to his original plan he thought of returning east. Before doing so, however, he would go to Oregon, visit his brother Alfred and take a look at that country. He arrived in Portland August 13, 1851. The impression he received of this section was very agreeable; he was greatly surprised at Astoria by the fresh green appearance of the land, nor was he less interested in observing the smoke from Mount St. Helens, which was an active crater at that time. Proceeding to Oregon city in a whale boat propelled by Indians using both oars and poles, he continued his journey eighteen miles further by stage to his brother's farm, which was about half way between Oregon city and Salem. Alfred had left Liberty, Missouri, in 1845, and after some embarrassing mishaps and reverses in the country had become well settled, and was successfully engaged in farming, also, during winter, working at his trade in the shop on his place. He had taken up a donation claim adjoining a similar claim owned by his wife's father. He was a quiet, honest, liberal man, who never became rich but always lived well. Everybody knew him, and many stopped with him. The emigrants always found in him a friend, and every year he helped them more or less, sometimes giving them a large part of his crop for assisting him to harvest it. He died in 1887, loved and respected by all who knew him. The village called Marquam in his memory is situated on his farm.

Judge Marquam was so favorably impressed with Oregon that he abandoned the idea of returning to the eastern states. After careful consideration he

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became convinced that Portland would become a great city, and that the best thing he could do was to make that place his home. Returning to California, he resigned his judgeship of Yolo county, and settling up what business he had there returned to Portland, where he has resided ever since. He opened a law office, and in a short time acquired considerable practice in the city and throughout the state. Washington county at that time extended to the Willamette river and included Portland, the county seat being Hillsboro. The practice in the court then involved every branch of the law, and it was greatly to the advantage of Judge Marquam that he had been so close and thorough a student in the general principles of jurisprudence, while his experience both at the bar and on the bench proved of the greatest benefit. He was earnest and zealous in the interests of his clients, and applied himself closely to business; was at all times a faithful student, and met with very fair success in his profession. In 1853, in compliance with the wishes of his party, he allowed himself to be a candidate on the whig ticket for a seat in the upper house of the legislature, or territorial council. His party was greatly in the minority, and still the judge was defeated by only sixteen votes, which is good evidence of the appreciation in which he was held. In 1882, though not an aspirant for office and not ambitious for political preferment, he again yielded to the solicitations of party friends, was nominated on the republican ticket, and elected a member to the lower house of the state legislature. In all legislation that was undertaken or consummated he showed himself familiar with the wants of his constituency, and was intelligent and industrious in attending to them.

Devoting himself continuously and loyally to the duties of his profession, he established himself in the confidence of the public, and in 1862 was elected to

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the office of county judge of Multnomah county. He served his first term of four years acceptably, and was reëlected and served the second term of the same period with entire satisfaction to the people and with credit to himself, which statement is borne out not only by the judgment of the people but as well, also, by an impartial analysis of his judicial career. During the eight years of his services he was absent from court but one day, and this was owing to sickness in his family. It is not an exaggeration to say that the bar and judiciary of the Pacific coast in pioneer days numbered many whose learning and ability would have been creditable to the older communities of the east and Europe. And why not? As a rule, the best men of our country came to the western shore to Americanize it, bringing with them a knowledge of the principles and application of law and possessing the ability to treat difficult and complex questions in a manner worthy of the clearest and best minds that our soil has ever produced. Among these early jurists Marquam earned a worthy place, not only standing at all times accredited with ability as a lawyer, but enjoying a reputation for integrity that was spotless. The course of justice while he was on the bench was rather smooth and even, not marked by any radical decisions or judicial emergencies.

Thus while he was loyal to his profession, there was an idea in his mind which, from its inception, was the dominating influence of his life and intended more than all else to make his career distinct. His judgment, as before intimated was that Oregon was sure of a great future. And faith in the country took the form in his mind of a determination to build upon real estate. What was his motive? Primarily self-aggrandizement, provision for those dependent upon him without which says an apostle a man is worse than an infidel; the very effort to so advance one's self is of itself an education, stimulating to all

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the manly virtues. If he had been wanting in strength, endurance, patience, economy, or adaptability, he would have fallen by the way. To live in comformity with his faith in the face of hardships and trials required not only wisdom that sees the end, but a rare force of character in execution. His first step was to take up a donation claim of one hundred and sixty acres just beyond East Portland as early as 1854. From that time whenever he had funds in excess of frugal household demands he turned them into well selected real estate. As lands were comparatively cheap, and as his profession always yielded him a fair income, he gradually became the owner of a large realty. In 1858 he came into possession of what is now called Marquam's hill, a beautiful mountain tract some two miles southwest from Portland, which elevated about 950 feet above the level of the Willamette river, commands a very wide view of country both in Oregon and Washington. On forty acres of this tract reserved as a farm and residence, he cultivates fruits and vegetables, has his horses and cows, and gathers his fuel. He has a complete system of water works for domestic and farm use. His wife being of strict domestic habit and seconding him in every respect, and his children being brought up to make themselves useful, he was enabled to go forward carrying greater weight than would otherwise have been possible in his land conquest. He was strong in his own house. He acquired real property chiefly in and about the city of Portland sufficient in value to ultimately give him decided recognition and power among the commercial leaders of the city.

Appreciation of property was slow. It seemed to come in 1878 and 1879, but the boom that Villard brought into the country with him went out with him. Then a greater sense of heaviness than ever prevailed, but the judge had the faculty to labor and to wait. Some persons sold their property

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for whatever they could get for it; others declined to pay taxes on their real estate, and let it go at Sheriff's sale. His friends said to him: "You had better let go. You will only ruin yourself by trying to hold on." Successful citizens in the community who I may say have had riches thrust upon them through the increased value of real estate which they could not avoid taking as security for debt, admonished him to sell. Says a contemporary of Judge Marquam, "he is peculiar in his business methods. He always carries big loans. It has seemed to me and everybody else that he must go under. The amount of interest he paid out would be a fortune itself, but he was always hopeful, good natured and cool. He either met promptly or made satisfactory arrangements to meet every obligation." He seems to be the only citizen of Portland who did not at some period feel that he had made a mistake, and would do better to go somewhere else. His loyalty to the soil distinguishes him. Had all others found the opportunity, which many sought, and gone away, I believe he would have remained true to his convictions, and so have become a nucleus about whom new comers would rally and be encouraged. It is an exhilaration to contemplate one man ever faithful in the midst of skeptics, to see him growing stronger from day to day in that policy on account of which his neighbors pity him. Doubtless many felt sympathy with him, for he was a man whom everybody liked.

The crowd appreciates only its own ideas; a thought which is not common it cannot grasp. Judge Marquam may have been looked upon as slow, but the winner is not known until the end of the race. If he seemed wanting in enterprise it was because he was struggling to acquire the means to take his place as a chief among builders. It is the fate of original men to be misunderstood, but of what consequence is this? Their character is expressed in the great

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object which they hold in view and work towards. Men of their own caliber may understand them; smaller men cannot. Judge Marquam was in advance of all who were not in sympathy with his idea regarding the future of his adopted home, for their proudest boast was that they were up to the times. His wisdom began however where theirs ended, for he laid his foundation in the future.

Surely his survival is an instance of the fittest, for he lived years of self-denial, not only to do his duty to himself and those dependent upon him, but to arrive at a point beyond which his history would be so plain that the very dullest man in the community could look at it and understand it. In the sixty-sixth year of his age he began to give material form to those things which he had already created in his mind, and which awaited only his bidding to stand forth. It was the concensus of the people that the block opposite the great hotel, The Portland, was the most eligible site for an opera house in size and appointments conforming with the dignity of the metropolis. This lot, originally bought by Judge Marquam for five hundred dollars, but valued in 1890 at $250,000, was retained by him. There had been much talk of forming a company to erect the proposed building, but he preferred to assume the entire expense and responsibility personally, not that the investment was as good as he could have made but rather as a concession to the general wish of the community in which he had grown up and been successful. This is emphasized by the fact that he is not in any sense a theatre man. Under date of October 26, 1889 the *West Shore* made the following statement, which I have found to be correct: "The Marquam, so named in honor of Judge P. A. Marquam, one of Portland's oldest and most respected citizens, will eclipse all other such buildings in the northwest. It yields the palm to only one on the Pacific coast, the grand opera house in San Fran-

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cisco, and that only to a small degree as regards size. The entire building was planned by an experienced theatrical architect. It is a combined office-building and theatre, the latter being entered through the former, though entirely cut off from it by a solid fire-proof brick wall extending up through the roof. The office building faces on Morrison street and extends from Sixth to Seventh, a distance of 200 feet, with a depth of 60 feet. It is eight stories high in the main portion, and ten in the central tower which, elevated 160 feet, commands a magnificent view of the surrounding country. The tower is reached by one of two passenger elevators, the other running to the eighth floor. The building is more substantial than any other west of Chicago. Its walls are of pressed brick with terra cotta trimmings, the first story and portions of the second being of grey sandstone, rock-faced and with points attractively carved. It is built absolutely fire-proof, the floors being constructed of steel beams and hollow tile arches. All the offices are heated by steam, and lighted by electricity from a plant having a capacity of 1,600 incandescent lights of sixteen candle power each.

The theatre, which is 70 by 130 feet, and five stories high, is handsomely finished on the inside in red oak, natural color, with imported tile flooring, and the side walls and ceiling frescoed in oil colors and bronze. The doors leading to the foyer, the foyer itself, and the entire auditorium show the latest ideas in modern theatrical architecture. The proscenium boxes are of the latest design, and while not obstructing the view from any portion of the house command the entire stage. The seating capacity of the theatre is 1,600, besides ample standing room.

Special attention has been given to the safety as well as the comfort of the audience. All the aisles are broad and lead to exits, of which there are fourteen, with a total width of 70 feet, so that the house

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may be emptied in two minutes. In addition to this a solid brick wall runs between the auditorium and the other portion of the theatre, and a fire-proof steel wire or asbestos drop with steel cables and operated automatically close the front of the stage in case of fire. The appointments of the theatre are most ample and complete. The entire house is illuminated by incandescent electric lights. In fact from one end to the other the theatre is complete, capacious, and elegant in every detail. The building is a lasting monument to the enterprise and public spirit of its projector and owner, to whom Portland is indebted for one of the finest architectural productions in America."

But, as intimated, this monument to Judge Marquam's real sentiment, which is liberal and progressive, is only the beginning of what he proposes to do, and unless all signs fail he will not only be among the wealthiest men on the north Pacific coast, in a comparatively few years, but will apply that wealth where it will be of the highest material advantage to the community. Marquam hill is soon to be transformed into a dwelling place such as will correspond with the judge's idea of what is substantial and elegant, and in accord with his family's proper place in the society of Portland.

Judge Marquam was married near Portland, May 8, 1853, to Miss Emma Kern, whose natal day was February 22, 1836. Her family were from Peoria, Illinois. Her father, with whom she came to Oregon, was an emigrant of 1851. He is still farming in Multnomah county. Mrs Marquam has had a great part in her husband's prosperity. She is a woman of excellent judgment, great strength of character, well educated in English and accomplished in many respects. She has always been sympathetic, courageous, and loyal, indeed a help-meet in every particular. Judge and Mrs Marquam have a most interesting family of eleven children, seven daughters and four

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sons, all native Oregonians. Grouped about their father and mother, all bright, healthy, fine looking, they form a picture of which Oregon may fairly be proud. It is really beautiful to see father and mother, and so many children so well grown, the family circle unbroken, with all the children born to them so happily developed in mind and body. This country can produce few such family pictures. The roll call is as follows: Mary Emma, born March 27, 1854; Philip Augustus, born September 9, 1855; William Winchester, born November 24, 1857; Charlotte Cornelia, born November 24, 1859; Jessie Louisa, born July 30, 1861; U. S. Grant, born July 3, 1863; Sarah Sherman, born February 8, 1865; Jana Highton, born April 28, 1867; Katie Lincoln, born March 27, 1869; Willamette, born April 7, 1871; Thomas Alfred, born January 29, 1874. These children, the youngest of whom is in is sixteenth year, have been brought up in the way they should go. They have enjoyed every facility of education that the city of Portland afforded. They are all well equipped for respectable and useful manhood and womanhood. This is the least that I can say in regard to them, which nevertheless is much.

Judge Marquam's life has been a dual one, professional and commercial; the former I may liken to the basis and the latter to the superstructure of his career. In each phase of his experience he was unmistakably the architect of his own fortune. He made himself a lawyer without help. The same wisdom which enabled him to see the possibilities for him in jurisprudence and the same tenacity of purpose by which he surmounted all the difficulties in his way were the identical discernment and energy redirected to the acquisition and use of realty. His individuality as a youth was well defined, and even more clearly when he stood so often absolutely alone among his neighbors in his over-confident and faithful anticipations for the city and state. This is

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to me a most interesting view of the man, for I see him independent, without leanings, self-supporting, cheerful, and bold, hewing to the line that he had marked out for himself regardless of the advice and criticisms, the sneers and the laughter of friends and acquaintances. They did not understand him nor could they understand him. He had a reason for the faith that was within him which he could not explain to them to their satisfaction, even if he tried; for while he never doubted that he would come out victorious, they looked to him as over-confident and visionary for thinking so. And if they failed to comprehend the commercial idea upon which he acted, they fell as far short of understanding him otherwise.

Of his public spirit and broad views of enterprise, they knew so little that they were surprised, and some of them possibly piqued to find themselves so mistaken in him, seeing him outstrip them all in his offering of a veritable temple to dramatic culture, and creating for them a model of excellence in the construction of business blocks. They failed to judge him rightly because they looked at him less with his eyes than with their own. No character, we may affirm, was ever thus rightly understood. While Judge Marquam's life has been one of intellectual activity, his walk and conversation has always been that of the well-balanced, common sense man of affairs. Though looking well into the future he is also a diligent student of the present, believing that the capabilities of the former may sometimes be brought within the scope of the latter. For instance, foreseeing an opportunity to expedite development in East Portland by reduced cost of transportation, he was instrumental in bringing about a reduction from twelve and a half to five cents in the charge for carrying passengers across on the ferry-boats. The proprietors of the ferry were very indignant at first, and saw only ruin staring them in the face. A year

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afterward they acknowledged cheerfully that owing to an increase of travel induced by the lower rate their ferry was more profitable then than before, and a town rapidly grew up on the opposite side of the river.

During his first term as judge he agitated the matter of purchasing the present poor farm west of Portland, and succeeded in having it secured for the county, 200 acres for $4,000. The market value of the same property is now $200,000.

We have seen in him unusual clearness of judgment; we have also seen in him a power of will to execute his convictions. His faculty to plan seemed equal with his strength to perform, his acts therefore being the expressions of his thoughts; for having no adviser, as a rule he judged for himself. With respect for the opinions of others, he preferred himself to follow lines of facts to their logical conclusions. He was not fond of having partners. Yet he is not conceited or pretentious; nor is he in any way out of sympathy with his fellow beings. He was never a politician. His evenings he spent at home with his family, but he was not unfamiliar with the politics of the state. On all great questions agitating the nation, his feelings were radical and pronounced. Passing by the old issues which have been determined, the most serious demand upon our government at this time is that the vote of every man who has the right to vote be counted. To his mind this is the great vital question of the present, affecting not only party vote but involving the fundimental principles of our republic. This is a question of disease in our internal economy which must be removed by the roots. We must be prepared also to defend ourselves against foreign enemies by fortifying our coast, and in time of peace to prepare for war.

Our immigration laws should be greatly modified. Years ago we were glad to accept because we could assimilate almost any foreigner, and then too,

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as a rule, immigrants were of a better class. Now the incomers are both inferior and numerous, and our assimilating capacity has diminished. Immigrants into our country should be closely examined, and excluded if not found fit to be citizens among us. Our naturalization laws should be framed upon the same idea. Certain foreigners, such as anarchists, should not be given the elective franchise under any circumstances. There should also be educational qualifications, and a long probation period during which foreigners should be required to familiarize themselves with our institutions. We cannot raise the standard of eligibility to citizenship in this country too high.

His views as thus intimated are as comprehensive as they are clear. He is not a social man in the gregarious sense of that word, inclining neither to fraternal nor religious organizations. He never was a member of any secret society, nor saw any benefit to himself in such membership. He is not an atheist; there is in his mind no doubt of the existence of an intelligent creator. To appreciate the great good the church has done one has but to open one's eyes; but when one finds the different denominations each claiming to be the true source of religion one finds no choice among them. Also while religion has done good it has certainly been the means of immense harm, the cause of great and bloody wars. In matters of belief or conscience he is careful not to interfere with others, and his large family is divided in membership among the protestant churches. Judge Marquam, as a force in the building of empire on the Pacific shore, cannot be understood unless he be known as a man entertaining a clear idea of justice and endeavoring to render to every person his rights. In rearing his children his first object was to have them honorable, and after that energetic and self-sustaining. There are men who take advantage of others in order to

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build themselves up, and there are still more who regard a technicality as ample excuse for the violation of a contract. Not so with Marquam. During the depreciation of greenbacks he met his obligations with coin. In the purchase of a piece of real estate, he assumed the payment of a note for $1,500 secured by a mortgage on the property. This was long before the advent of greenbacks on the Pacific coast. Afterward the owner of this note pledged it to a broker for its face in greenbacks, less interest. The note was left at a bank for collection. Judge Marquam began to pay it off in gold, upon the discovery of which by the owner, he was notified to stop payments, and he was not allowed to pay again for several months, while the owner and broker litigated the matter to determine between themselves which was entitled to the difference between the gold value and the greenback value of the note, which, at that date, was very large. As there was nothing to hinder Judge Marquam from paying in greenbacks, both of these parties had assumed that he would avail himself of the privilege; but he said that while he had the unquestioned legal right to pay in legal tender, he did not feel justified in doing so, for when the note was given gold was exclusively the currency of this section of the country, and that the obligation, though not expressed was evidently implied, that it should be paid in gold.

Thus was he conscientious when it cost something to be so; but such was his sense of honor that no consideration of profit could induce him to take an advantage afforded by the law; as though his life were modeled upon these lines:

> This above all—to thine own self be true;
> And it must follow, as the night the day,
> Thou cans't not then be false to any man.

Says Samuel Smiles: "Simple honesty of purpose in a man goes a long way in life if founded on a

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just estimate of himself, and a steady obedience to the rule he knows and feels to be right. It forms the mainspring of vigorous action." "No man," once said Sir Benjamin Rudyard, "is bound to be rich or great; no, nor to be wise; but every man is bound to be honest."

It is a noticeably pleasant aspect of Judge Marquam's disposition that while he is decided in his ideas of right and wrong, and punctillious in the discharge of what seems to him to be duty, he has great charity for those who differ from him, and is considerate of their opinion. He does not assume to make a law of conduct for others, but is uncompromising to the point of stubbornness in shaping his own conduct and controlling his affairs according to his own ideal. In reading history his sympathies are with the oppressed, yet withal having the highest regard for law and established institutions. He was not an abolitionist, but he felt that slavery was wrong. He would never have favored a war to attack an institution recognized as this was in the constitution of the United States, still he thinks the greatest act of Mr Lincoln's life, showing more of shrewdness and statesmanship than any other, was his ability to carry the country along and refuse to be swayed by the abolitionists until the country was prepared for emancipation. That is to say, his view of slavery and abolition seems to me identical with that entertained by Lincoln himself.

While naturally a friend of those who labor with their hands—for in no man's mind is toil associated with greater dignity than in his,—he does not look with any tolerance upon the assumption that working men are entitled to superior privileges. He says: "While I believe in the rights of laboring men to associate for their own protection, and the maintenance of proper relations to capital, I deem their course in preventing other men from laboring, and in compelling

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strikes, as arbitrary and vicious, and should be hindered by law. In other words that while you have the right to say you will not work for a certain sum of money, you have no right to say I shall not."

On the other hand, he is not a man to be coerced or intimidated into compliance with the demands of aggregated capital. He may be lead but there is too much Americanism in him to submit to be driven. For instance, the manufacture and sale of bricks, at the time when he was about to begin the construction of several large buildings of this material, had fallen altogether under the control of a trust. Other parties dared not enter the field against the monopoly, which discouraged competition and kept up the price of bricks. The judge, however, established a brick-yard on his own land, and put in a plant for both common and pressed brick which he operated in 1889 and 1890 with good results making a fine grade of the latter for his own use. This proved not only wise and economical for himself, but of great value to the public, for others following in his lead, who had not the courage of themselves to take the initiative, bricks became abundant, the price was reduced from $12 to $7 per thousand, and they were thus placed within the reach of all.

Judge Marquam has been a consistent and earnest republican in politics, yet to my mind more American than partisan, as may be inferred from the previous statement of his views, which indicate a reverence for law, independence in thinking, and loyalty to the union.

Tell me whom you admire, says a distinguished author, and I will tell you who you are,—so much are we in sympathy with and influenced by the lives of those whom we most esteem. Marquam looks upon Lincoln as the grandest American of all; while in his habit of thought and action one can trace perceptibly the effect upon his mind of studying the lives of other great examplars. Is it not palpably true

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that there are things brought out in this study of the life of Philip Augustus Marquam, which are calculated to encourage, strengthen, and inspire others whose only inheritance and estate is self and time, an heirloom, however, wide and fair?

The authentic picture of any one's life and experience possesses an interest greatly beyond that which is fictitious, for it has the charm of reality; every person may learn something from the recorded life of another, and comparatively trivial deeds and sayings are invested with interest as the outcome of the lives of such beings as we ourselves. The records of such a life as that before us influence our hearts, inspire us with hope and fortifies us in the wholesome resolve to struggle manfully and honorably as he has done, in order that we may have a reward, commensurate with our talents and their use. It is the life of a plain, direct, unpretentious, and practical man, whose features in the accompanying portrait supplement and confirm the picture of him in words conscientiously presented herewith, a man, the elements of whose character were brought into action by determinate will and influenced by high purpose, he entered upon and courageously persevered in the path of duty at whatever cost of worldly interest; and so he may be said to have approached the summit of his being. This exhibits character in its most intrepid form, and is the highest ideal of manliness. The acts of such a personage become repeated in the life and action of others. His very words live and become actions.

In contemplating such an experience as his, "it would be nearer the mark to say that man is the architect of circumstances than that he is the creature of circumstance. It is character which builds an existence out of circumstance. From the same materials one man builds palaces, another hovels; one ware-houses, another villas. Bricks and mortar are mortar and bricks unless the architect can make

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them something else. Thus it is that in the same family, in the same circumstances, one man rears a stately edifice, while his brother, vacillating and incompetent, lives forever amid ruins. The block of granite which was an obstacle on the path of the weak becomes a stepping stone on pathway of the strong."

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CHAPTER XXV.

LIFE OF VAN B. DE LASHMUTT.

PIONEER VERSATILITY IN ENTERPRISE—THE UNION CAUSE IN UTAH—VARIED FACTORSHIP—AS A BUILDER—QUICK RISE IN FINANCIAL IMPORTANCE—ACTIVE AND USEFUL CITIZENSHIP.

THE versatility displayed by the earlier settlers of Oregon has never perhaps been more fully exemplified than in the career of Van B. De Lashmutt, who has successfully filled the roles of journalist, merchant, real estate agent, capitalist, banker, and miner, besides being identified with various corporations as chief promoter and leading officer. Born in Burlington, Iowa, July 27, 1842, he passed the first years of his boyhood on a farm some two miles distant from that city, near which since 1836 his parents had resided.

Coming to Oregon in 1852, when fifteen years of age he entered the printing-office of the Salem *Statesman*, of which Asahel Bush was editor. Here he remained for four years, having the advantage of his employer's advice and experience, and being treated as a member of his family. Though well satisfied with his position and prospects at Salem, at the outbreak of the civil war he did not hesitate to offer his services in the cause of the country, and enlisted in company G, 3d infantry, California volunteers, which afterward formed a portion of General Connor's command. Much to the chagrin of himself and his

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CHAPTER XXV.

LIFE OF VAN B[illegible] CONCLUDED.

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THE versatility displayed by [illegible] Oregon has ever possessed more decisive [illegible] than in the career of Van B[illegible] He successfully filled the roles of [illegible] real estate agent, editor, [illegible] banker, farmer, miner, [illegible] promoter and [illegible] Born in Iowa, July 27, [illegible], he passed the first seven boyhood on a farm some [illegible] miles distant from [illegible] city, near which is [illegible] present home.

Coming to Oregon in [illegible], when [illegible] age he entered the printing office of the [illegible], of which Asahel Bush was [illegible] remained for four years, having the advantage of employer's advice and experience, and [illegible] as a member of his family. The [illegible] with his position and prospects at [illegible] break of the civil war he could not [illegible] his services in the cause of the country and in company G, 3d infantry, California [illegible] which afterward formed a portion of [illegible] command. Much to the chagrin of his [illegible]

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companions, and contrary to their solicitation to be sent to the scene of active hostilities, they were held in Utah until the close of the war, restraining the disloyal and putting down Indian outbreaks—a valuable service, but not of the kind sought.

In December 1864, having been mustered out of the service, he removed to Washoe, Nevada, where he purchased and edited the *Times*, meeting with fair success, though the field was too limited for a man of his enterprise and ability. He returned in the following winter to Oregon, where he was employed in the office of the Portland *Oregonian*. But journalism, as he soon discovered, holds forth but slight attractions even to the most gifted writer, for the talent, zeal, and application which win success in this profession will not fail, if applied to some less arduous and more lucrative calling, to insure at least a sufficiency of this world's goods.

In one respect at least Mr De Lashmutt differed from the modern journalist, he knew how to take care of his earnings; and in 1868, when he had accumulated a moderate sum, he established himself in Portland, first in the grocery business, then in the real estate, and afterward in brokerage. His success was phenomenal, and he rose rapidly to a commanding position among the business men of the city. His investments in real estate, made in anticipation of railroad developments, were judicious, and in consequence he possesses very valuable holdings.

In connection with W. W. Thayer, Richard Williams, H. W. Scott, E. D. Shattuck, Charles H. Dodd and others, in September 1882 he incorporated the Metropolitan Savings bank, which did a general banking business It was remarkably successful, and in June 1886 was converted into the Oregon National bank, Mr De Lashmutt president. A characteristic of Portland is the stability of its institutions. This may be said particularly of its banks, among which the Oregon National stands well. He was made presi-

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dent of the Ellensburg National bank, the Arlington National bank, Oregon, and the Miners' Exchange bank at Wardner, Idaho, and was connected with the Northwestern Loan and Trust company, Portland. It is but fair to credit him with his share in the financial affairs of the northwest, and to note that his ability in finance is recognized by the oldest and brightest men among his competitors in the field.

As early as 1875 Mr De Lashmutt began to interest himself in blood horses, and from that time was occupied more and more in the importation and breeding of thoroughbred and trotting stock. He has owned some notable horses of the former kind, but proposes to confine himself to the latter. Fifteen miles from Portland on the West Side railroad he has a breeding-farm on which he has fifty brood-mares, a number of them having very low records. This work is in accord with his taste, and contributes in a great measure to the actual wealth of the community. Some first-class horses were brought into Oregon by the early immigrants, and others now and then later, but the breed throughout the state generally deteriorated. In order to form any idea of the value of the services of Mr De Lashmutt and one or two others who have improved the breed of horses in Oregon, the more recent and magnificent products of their breeding must be compared with the Indian stock, which as a rule was about the base from which they bred.

In 1861 the state board of agriculture was organized under an act of the legislature, but the management was not successful. It was exclusively in the hands of the farmers, who did not show themselves to be adepts in finance. The yearly meetings became less and less interesting, until at last they were abandoned. In 1884 it was revived under a remodeled commission, of which Mr De Lashmutt, an appointee of the governor, was one. The grangers were opposed to the new régime, but seeing the annual fair attracting attention, eliciting interest, and by being conducted

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on strictly business principles, accomplishing in a high degree the very things that it was originally organized to do, they acquiesced, and coöperated. The chief recreating agency in all this was Mr De Lashmutt, to whom the credit is largely due for the interest manifested in and the usefulness of the state agricultural association.

For the purpose of introducing and encouraging the importation of blooded stock, and educating the people thereupon, and for establishing headquarters where breeders could not only see but also make selections of the best stock for breeding purposes, Mr De Lashmutt interested himself in and procured the organization of the domestic fat-stock show in 1884. He has been president of the organization from the beginning. The extraordinary success of this enterprise from the outset culminated in the North Pacific Industrial association, the exposition of which in 1889 at Portland was the most striking exhibit of industrial life ever made in the north Pacific states. Mr De Lashmutt's continuous and active official connection with this association from its inception was very helpful towards putting it on a good footing and making its first exhibit so creditable. He was its first president and afterward continued a member of the executive committee.

In 1886, when the Coeur d'Alêne mining region was explored, Mr De Lashmutt was among the first in Portland to manifest appreciation of the district by engaging in the development of its silver and lead and gold mines. He acquired and retains a controlling interest in the Sierra Nevada, the Granite, the Stemwinder, the Inez, the California and the Alma and Nellie Wood, and is president of each of the six companies developing them. One of these companies paid a dividend during 1889 of $40,000 and another $35,000, and they are all recognized in that section of the country as producing mines. Much outlay was required for machinery and some extraordinary

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expense on account of the peculiarity of topography, but their development promises great profit to Mr De Lashmutt and large benefit to the general public. This feature of the matter is very gratifying to him, for while he is not so unselfish as not to be laboring for himself, it is a satisfaction to him that in working out his ambition he is at the same time promoting the common welfare. As a rule the ores of the Coeur d'Alêne are silver-lead and of low grade, and the question of transportation was vital; unless the lowest rate could be had, work on the mines would cease. In other words, a high rate of transportation was simply prohibitory; hence Mr De Lashmutt's attitude regarding the joint lease of the Oregon Railway and Navigation company's road to the Union Pacific and Northern Pacific railroads can be readily understood. Between these two lessors, the former having control of all the territory lying south of the Snake river and the latter all that lying north and east of it, competition in Coeur d'Alêne freight would have ceased, and that country in which the development of vast quantities of low-grade ore has been of so much general benefit, would have been kept back at least ten years, and possibly for an indefinite period. Foreseeing this danger, Mr De Lashmutt, while others simply protested and argued, obtained an injunction against the consummation of the lease on grounds both of statutory law and public policy. He had a hard struggle against Villard and his entire following, but he succeeded in forestalling the monopoly which would have tied up the country. The result of his energy and ability is to be seen in the completion of the Oregon Railway and Navigation company's road, the building of which the lease was intended to stop, and a road finished by the Northern Pacific, which two roads are competing for the carrying trade of the mines.

Mr De Lashmutt has not sought or desired political preferment, though ready at any time to serve city

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or state. In 1888 he was elected by the city council mayor of Portland, and was afterward elected by the people by a larger majority than had ever been received before, a compliment expressing the general appreciation in which he was held. But this is not to be wondered at, for his administration has been public-spirited, progressive and promotive of the city's best interests.

In February 1868 he married Miss Maria C. Kelly, who came to Oregon with her parents when she was a child. Her father, Albert Kelly of Kentucky, a methodist clergyman, now deceased, was engaged in farming in the neighborhood of Portland for twenty-five years. Mr and Mrs De Lashmutt have two sons and one daughter; the eldest son was educated in Europe, the younger in Portland, while their daughter was at Wellesley college near Boston.

Mr De Lashmutt is somewhat above medium height, with slender but well-knit frame, erect, agile and quick in speech. His face expresses intellectuality, kindliness and a keen sense of humor. He is still in the prime of manhood, giving promise of even greater things for himself and wider usefulness to the community.

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CHAPTER XXVI.

LIFE OF JOSEPH SIMON.

OREGON AND ENGLISH STATESMEN—APPEARANCE—NATIVITY—BUSINESS CAREER—DOLPH, BELLINGER, MALLORY, AND SIMON—PORTLAND CITY COUNCIL—CHAIRMAN OF REPUBLICAN STATE CENTRAL COMMITTEE—STATE SENATOR—MEASURES.

THOSE who are in the habit of frequenting the halls of legislation, whether in Westminster or Washington, Sacramento or Salem, are apt to observe, as they would at a theatre, the appearance, manner, and characteristics of the actors in the political drama. Entering in by-gone years the strangers' gallery in the house of commons, for instance, the visitor who for the first time should have noticed Lord John Russell would see a small, fragile, unassuming man, neatly attired in black and with snow-white necktie. After rising to speak he would hear but the most obvious of commonplaces, and those uttered in a thin monotonous voice, until a round of applause and a roar of laughter, greeting some unexpected shaft of sarcasm, to which his previous remarks were but the stringing of the bow, would be the first intimation that he was listening to the great liberal leader. Among those who are sure to attract the attention of visitors to the senate-chamber at Salem is a man of plain, unpretentious manner, a little below medium height, and of a compact and well-knit frame, with regular well-shaped features, lofty forehead, piercing brown eyes, and dark brown beard. Thus appeared

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CHAPTER XXVI.

LIFE OF JOSEPH SIMON.

OREGON AND ENGLISH STATESMEN APPEARANCE—NATIVITY—BOYHOOD, BELLINGER AND HOWE, JOHN POPE, CHIEF-JUSTICE OF THE SUPREME COURT OF OREGON TERRITORY, SALEM SCHOOLS, TEACHERS.

Those who are in the habit of frequenting the sessions of legislation, whether in Westminster or Washington, Sacramento or Salem, are apt to observe, as they would at a theatre, the appearance, manners and characteristics of the actors in the political drama. Entering in by-gone years the strangers' gallery of the house of commons, for instance, the visitor who for the first time should have noticed Lord John Russell would see a small, fragile, unassuming man, neatly attired in black and with snow-white cravat. After rising to speak he would hear but a few of the most obvious of commonplaces, and those uttered in a monotonous voice, until a round of applause and a roar of laughter, greeting some unexpected sally or sarcasm, to which his previous remarks were but as the stringing of the bow, would be the first intimation that he was listening to the great Whig leader. Among those who are sure to attract the attention of visitors to the senate-chamber at Salem is a man of quiet, unpretentious manner, a little below medium height, and of a compact and well-knit frame, with regular well shaped features, lofty forehead, deep brown eyes, and dark brown beard. This gentleman

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Joseph Dimon.

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Joseph Simon, who, before fairly arriving at middle age, had already won a commanding position in the politics as well as in the legal profession of the state of Oregon.

A German by birth, and the oldest of four children, his native town being Bechtheim, where his ancestors lived for several generations, and his natal day the 7th of February, 1851, Joe came with his parents to the United States when eighteen months of age, and in this country his brothers and sister were born. After a brief residence in New Orleans, the family removed to California, and thence, in 1857, to Portland, where his father engaged in business. Here he attended school until his fourteenth year, and had no further opportunity to acquire an education; but this was no drawback to his career, for he was ever a thorough student and apt to learn, recognizing that his early training could at best but teach him how to educate himself.

After assisting his father in business until nineteen years of age, he resolved to make his own way in life, partly because, through business depression, his services were not really needed, and also for the reason that he had no taste for mercantile pursuits, his ambition inclining toward the profession of the law. In 1870, therefore, he entered the office of Mitchell & Dolph, and after two years' study, was admitted to the bar. Soon afterward Mitchell was elected United States senator for Oregon, whereupon the partnership was dissolved, and on February 1, 1873, a new firm was established in which Mr Simon became a member, under the style of Dolph, Bronaugh, Dolph & Simon. This firm continued in existence until February 1883, when it was dissolved by the withdrawal of Judge Bronaugh. J. N. Dolph, who had just previously been elected to the national senate, also shortly thereafter retired from the firm, and thereupon the present firm of Dolph, Bellinger, Mallory & Simon was constituted. Thus, when but

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twenty-two years of age, admitted into the leading law-firm in Portland, it is almost unnecessary to state that, with his acknowledged ability, and the patient study which he devoted to all his cases, Mr Simon's professional career has been a most successful one.

In 1877 Mr Simon was elected to the city council of Portland, and during his three years' term, during the frequent absence of the mayor, Mr Simon was invariably selected to serve as president of the council, and acting mayor of the city. Though always interested in politics, for which he has not only the talent, but the tact, which counts for more than talent, it was not until 1878 that he appeared as a prominent figure in the political arena. In that year he was chosen secretary of the republican state central committee, and to him, though its youngest member, the entire management of the campaign was entrusted. In 1880, 1884, and 1886, he was selected as chairman of the same committee, and was placed in charge both of the national and state elections in Oregon. The year 1880 was the first one in which a republican legislature was elected in Oregon for many years, and to Mr Simon's efforts the success of the ticket was largely due. In the years 1880, 1884, and 1888, he was also elected to the state senate from Multnomah county, making for him a continuous service of twelve years in that body. During his service in the state senate, he displayed his good feeling toward the members of the firm with whom he studied law, by voting for and assisting in the election of both senators, Dolph and Mitchell. As a legislator he has always rendered most faithful service, and during his long service in the state senate he has had much to do with shaping the legislation of the state; all measures that were beneficial to the state always found in him a ready and zealous supporter. In the legislature of 1882 he drew up and secured the passage of a bill creating a paid fire department for the

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city of Portland, in which he had always taken an active interest while it was under the volunteer system, being president of the fire department and also president of one of the companies for many years, and up to the time of the extinction of the volunteer system. Another bill of his introduction was one abolishing the fees of witnesses in criminal cases pending in inferior courts in his county, which had before been extravagantly high, and a source of great corruption, thereby saving the county enormous sums of money annually.

Among the great number of important measures introduced in the legislature and passed through the efforts of Mr Simon was one providing an efficient mechanics' lien law for laborers, material-men, etc., which was the first adequate protection afforded that class of people. He also introduced and succeeded in passing a bill authorizing the construction of a railroad bridge across the Willamette river between the cities of Portland and East Portland, and the magnificent steel railroad bridge, erected by the Oregon Railway and Navigation Company, spanning the Willamette river stands as a monument to his efforts. This measure was bitterly opposed during its passage through the legislature by the governor and finally vetoed by him, but through the efforts of Mr Simon was again passed over the veto by a two-thirds vote of the legislature. Another bill which he succeeded in passing provided for the leasing of the Oregon Railway and Navigation Company's railroad system to the Union Pacific Railroad Company, a measure that the people of the entire state deem of incalculable benefit.

During the special session of 1885 he framed and passed a bill whereby the control of the police department was taken out of the hands of the mayor and council of the city of Portland, and entrusted to a board of commissioners. Mr Simon was appointed by the governor of the state a member of this commission, and was elected by his associates president

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of the board. In the session of 1889 he was elected and served with marked superiority over all who had preceded him in the office as president of the senate, winning the esteem and good-will of every member by the ability and fairness with which he presided over that body. Throughout his political and business career, Mr Simon has been noted as a hard worker, a man gifted with remarkable shrewdness, intelligence, versatility, and a keen insight into human nature. Still almost a young man, and endowed with remarkable vitality, endurance, energy, and fertility of resource, he has before him an assured and perhaps brilliant future, in which his efforts in behalf of his adopted state and his adopted country will, it is hoped, be as much appreciated in the future as they have been in the past.

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